

3 UNITED STATES OF AMERICA, - Docket No. 3:06-CR-719

4 Plaintiff, - Toledo, Ohio
5 v. - May 2, 2008 - Trial

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6 MOHAMMAD ZAKI AMAWI, et al. , -

7 Defendants.

8

VOLUME 42, TRANSCRIPT OF TRIAL

9 BEFORE THE HONORABLE JAMES G. CARR

UNITED STATES DISTRICT CHIEF JUDGE, AND A JURY

10

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24 Proceedings recorded by mechanical stenography,
25 transcript produced by notereading.

08:31:53 1 (Reconvened at 8:31 a.m.)

08:36:34 2 MR. SOFER: A couple preliminary matters we

08:36:37 3 should probably deal with first. Firstly, the

08:36:40 4 government intends on playing a video which we're asking

08:36:46 5 that a translation be handed out to the jury. It's

08:36:50 6 Government's Exhibit 20A. It goes with what's already

08:36:54 7 been introduced into evidence, Government's Exhibit 20.

08:36:58 8 And we're going to ask that the jury read this probably

08:37:06 9 before or during the playing of Government's Exhibit

08:37:09 10 Number 20, which has been previously played. We're

08:37:13 11 going to stop it before the more gruesome parts of this

08:37:17 12 video.

08:37:19 13 The other thing, Your Honor, is Mr. Boss

08:37:23 14 cross-examined Mr. Griffin last week about I believe

08:37:27 15 what he called shoulder-fired missile launcher. We have

08:37:34 16 what amounts to what it is; I have it in my hand now to

08:37:38 17 mark as Government's Exhibit 205. And what it is is

08:37:44 18 a -- essentially it's just a disjuncture, just a blank

08:37:49 19 tube. There's nothing -- no munitions in it whatsoever,

08:37:54 20 but it's sort of like what a shell casing would be to a

08:37:57 21 bullet, except that this round is designed for antitank

08:38:02 22 fire. And given the fact that it's been brought up and

08:38:06 23 asked about by counsel, we are going to seek to admit

08:38:11 24 this into evidence. And that's it.

08:38:14 25 In terms of time, Your Honor, I think the

08:38:19 **1** government hopes to be done this morning, maybe late
08:38:23 **2** morning, I should say, and we're going to ask that
08:38:27 **3** hopefully we can try to get finished with Mr. Griffin.

08:38:30 **4** THE COURT: Okay.

08:38:32 **5** MR. IVEY: Your Honor, our concern is --

08:38:47 **6** THE COURT: I realize it's just a few
08:38:49 **7** minutes, but I really wish I'd been told this when I
08:38:53 **8** took the bench. But go ahead.

08:38:55 **9** MR. IVEY: Your Honor, the government sent
08:38:58 **10** us over multiple pages of clips that they propose to
08:39:04 **11** play to the jury on redirect this morning. We would
08:39:10 **12** have liked to have gotten these and let the Court know
08:39:15 **13** about this, but we didn't get this.

08:39:16 **14** THE COURT: When I'm on the bench, let's not
08:39:19 **15** waste time. Go ahead.

08:39:22 **16** MR. IVEY: I had asked the government the
08:39:24 **17** day before yesterday, could they please send us the
08:39:29 **18** clips that they plan to use so that we can invoke the
08:39:33 **19** rule of completeness, so that we can have parts of their
08:39:38 **20** clips played. I was told at least with respect to Mr.
08:39:42 **21** Amawi that the government had already done that. They
08:39:44 **22** would not send them to me until the middle of the night
08:39:47 **23** last night.

08:39:48 **24** THE COURT: He didn't get them. Why not?

08:39:50 **25** Let's move along. I want to --

08:39:53 1 MR. SOFER: We sent them as fast as we had
08:39:55 2 them, Judge.

08:39:56 3 THE COURT: Okay. We'll deal with whatever
08:39:58 4 your problems are. If we can't complete Griffin today,
08:40:04 5 we can't. I want to very much. We lost a lot of time
08:40:07 6 in the case. You had this. The fact that you didn't
08:40:09 7 know somebody was going to play it, we've been trying to
08:40:15 8 be as professionally courteous as we can, but we deal
08:40:18 9 with these things. We need some time for you to get
08:40:22 10 prepared.

08:40:23 11 MR. SOFER: I'll just note there's nothing
08:40:25 12 new in here.

08:40:26 13 THE COURT: I understand. Okay.

08:43:26 14 (The jury enters the courtroom.)

08:43:26 15 THE COURT: I apologize for the delay.

08:43:28 16 Let's get underway and hopefully we'll have a full day.

08:43:32 17 Mr. Sofer, you can begin redirect

08:43:36 18 examination.

08:43:37 19 Mr. Griffin, you remain under oath.

08:43:39 20 DARREN GRIFFIN, REDIRECT EXAMINATION

08:43:51 21 BY MR. SOFER:

08:43:51 22 Q. Good morning, Mr. Griffin.

08:43:52 23 A. Good morning.

08:43:54 24 Q. I'm going to ask you a few questions this

08:43:57 25 morning, mostly about the questions defense counsel

08:43:59 **1** asked you, and give you a chance to hopefully explain
08:44:01 **2** some of your previous answers. To begin with, we'll
08:44:07 **3** try to sort of go through it the way that it came out in
08:44:09 **4** court when the defense attorneys asked you questions.
08:44:15 **5** Mr. Ivey asked you about your purpose of going over to
08:44:19 **6** Iraq with Mohammad Amawi, and he asked you if it was for
08:44:22 **7** engaging in violent jihad. Do you remember that
08:44:25 **8** question?

08:44:28 **9** **A.** Yes, I do.

08:44:29 **10** MR. IVEY: Objection. My question was not
08:44:32 **11** going to Iraq.

08:44:33 **12** MR. SOFER: I'm sorry. I misspoke.

08:44:37 **13** Counsel is correct; I apologize.

08:44:39 **14** **Q.** Going over to Jordan. Do you remember him
08:44:43 **15** asking that question?

08:44:43 **16** **A.** Yes, sir.

08:44:45 **17** **Q.** And can you tell the members of the jury what
08:44:48 **18** your purpose was of going over to Jordan with Mohammad
08:44:52 **19** Amawi in August of 2005?

08:44:55 **20** **A.** Basically to take over the laptop computers to
08:44:59 **21** supply to the insurgents, specifically the contact in
08:45:05 **22** Syria to provide to the insurgents going in and out of
08:45:10 **23** Iraq.

08:45:10 **24** **Q.** Is that based on conversations you had had with
08:45:12 **25** Mr. Amawi prior to the trip?

08:45:14 **1** A. Yes.

08:45:15 **2** Q. Mr. Ivey asked you also about whether there were
08:45:20 **3** e-mails regarding the jihad training between you and the
08:45:22 **4** other defendants. Do you recall that question?

08:45:24 **5** A. Yes.

08:45:25 **6** Q. You said you could recall one particular one; is
08:45:28 **7** that correct?

08:45:28 **8** A. Correct.

08:45:28 **9** Q. And can you tell the members of the jury again
08:45:31 **10** what that particular e-mail was?

08:45:32 **11** A. Basically that was the February 25, 2005 e-mail
08:45:40 **12** sent to me by Mr. El-Hindi --

08:45:43 **13** Q. Go ahead. I'm sorry?

08:45:45 **14** A. -- about the IEDs.

08:45:50 **15** Q. If we can put up 79, please.

08:45:54 **16** We're displaying the first page of Government's

08:45:57 **17** Exhibit Number 79. We're going to come back to this.

08:46:00 **18** But if we could just go through the other pages so the
08:46:03 **19** jury can see them.

08:46:44 **20** (E-mail displayed)

08:46:56 **21** Q. What's just been shown as Government's Exhibit
08:46:59 **22** Number 79, is that the e-mail you described that subject
08:47:03 **23** was an IED attack?

08:47:05 **24** A. Yes.

08:47:06 **25** Q. Can you tell the members of the jury, if you

08:47:08 **1** know, what the purpose was of Marwan El-Hindi sending
08:47:11 **2** you that e-mail?

08:47:12 **3** MR. HARTMAN: Objection.

08:47:13 **4** MR. BOSS: Objection.

08:47:15 **5** THE COURT: Sustained.

08:47:16 **6** **Q.** Did you have conversations with Marwan El-Hindi
08:47:17 **7** about the purpose of why he sent you that e-mail?

08:47:20 **8** **A.** Yes.

08:47:21 **9** **Q.** Can you tell the members of the jury basically
08:47:22 **10** what you gleaned from those conversations?

08:47:24 **11** **A.** That --

08:47:26 **12** MR. BOSS: Objection.

08:47:27 **13** THE COURT: I would agree. Let's have him
08:47:29 **14** testify as to what he recalls he was told.

08:47:32 **15** **Q.** Well, we'll come back to it, Judge, we'll play
08:47:35 **16** the tape.

08:47:39 **17** Mr. Ivey asked you some questions about videos
08:47:42 **18** you watched with Mohammad Amawi. Do you recall those
08:47:45 **19** questions?

08:47:45 **20** **A.** Yes.

08:47:45 **21** **Q.** And he showed you a few videos, and he asked you
08:47:49 **22** whether those videos could be used for training. Do you
08:47:52 **23** recall those questions?

08:47:53 **24** **A.** Yes.

08:47:53 **25** **Q.** First of all, can you tell the members of the

08:47:56 **1** jury again what the subject areas were of the training
08:47:59 **2** that you were providing to these defendants?

08:48:02 **3** **A.** Basically jihad training, tactics, U.S. tactics,
08:48:08 **4** Mujahidin tactics, ambushes, raids, those sort of
08:48:13 **5** things.

08:48:13 **6** **Q.** Were there other subjects that you were going to
08:48:16 **7** teach them as well that you discussed with them
08:48:18 **8** throughout the case?

08:48:19 **9** **A.** Yes.

08:48:19 **10** **Q.** Can you describe some of those?

08:48:21 **11** **A.** Basically sniper training was another one.
08:48:31 **12** Basic weapons techniques and things like that.

08:48:36 **13** **Q.** Okay. I'm going to play a couple of these videos
08:48:41 **14** for you, just portions of them. And I'm going to ask
08:48:44 **15** you if you can describe for the members of the jury what
08:48:46 **16** training value they had. I think there were a number
08:48:49 **17** of times when you were trying to explain what training
08:48:52 **18** value they had. I just want to give you an opportunity
08:48:54 **19** to explain that to members of the jury. Let's start
08:48:57 **20** with Exhibit Number 23, please. Before we play it, I
08:49:00 **21** think Mr. Ivey asked you if it showed how to build a
08:49:03 **22** bomb. And I think your answer to his question was, no,
08:49:06 **23** it doesn't show you how to build a bomb. But let's
08:49:09 **24** take a look at it, if we can. It's 23.

08:49:19 **25** MR. SOFER: Judge, I apologize if our -- we

08:49:21 **1** have a couple little quirks as we go through this. It
08:49:26 **2** will take a couple seconds.

08:49:47 **3** THE COURT: Actually, if you want to take a
08:49:49 **4** a moment, I've got a little one of my own.

08:49:58 **5** MR. SOFER: Apparently they're back at the
08:50:02 **6** ranch.

08:50:03 **7** THE COURT: Mine's been fixed, too.

08:50:08 **8** MR. SOFER: Excellent.

08:50:09 **9** BY MR. SOFER:

08:50:10 **10** **Q.** Mr. Ivey asked you some questions about supplying
08:50:13 **11** evidence as opposed to gathering evidence. Do you
08:50:15 **12** recall that question?

08:50:16 **13** **A.** Yes.

08:50:16 **14** **Q.** Could you describe, there was a time on February
08:50:19 **15** 16, 2005 when you brought some books over to Marwan
08:50:22 **16** El-Hindi's house?

08:50:23 **17** **A.** Yes.

08:50:24 **18** **Q.** I think Mr. Ivey characterized that as supplying
08:50:28 **19** evidence. Can you describe to the members of the jury
08:50:30 **20** why it is you showed the defendants the books that you
08:50:34 **21** brought over on February 16, 2005?

08:50:38 **22** **A.** Basically to add to my credibility; to let them
08:50:42 **23** know, hey, this is what I know; this is what we are
08:50:46 **24** going to learn.

08:50:50 **25** **Q.** I think Mr. Ivey asked you at that meeting on

08:50:54 **1** February 16, 2005, was that the one and only time that
08:50:57 **2** you met with all of the defendants. I believe your
08:50:59 **3** testimony was that it was the one and only time you had
08:51:02 **4** met with all of the defendants. Were there other times
08:51:05 **5** during the course of the case where you met with
08:51:07 **6** multiple defendants but not all of them together?

08:51:09 **7** **A.** Yes.

08:51:10 **8** **Q.** Can you just give the jury again, not giving us
08:51:14 **9** every single example, but some sort of brief examples of
08:51:18 **10** the combinations of the defendants that you met with?

08:51:20 **11** **A.** Basically I met with Marwan El-Hindi when we went
08:51:26 **12** up to -- let's see, April 4, 2005, when we went to meet
08:51:37 **13** Jihad Dahabi, when we went to set up the non-profit
08:51:39 **14** corporation for the grants. Later that month on the
08:51:42 **15** 20th and 29th I met with Mohammad Amawi and Wassim
08:51:47 **16** Mazloum to go to the Cleland's shooting range.

08:51:50 **17** **Q.** Were there times you met with Mohammad Amawi and
08:51:53 **18** Marwan El-Hindi?

08:51:54 **19** **A.** Yes.

08:51:54 **20** **Q.** What places, if you recall, among others did you
08:51:57 **21** meet with them?

08:51:57 **22** **A.** We met at AZ Travel a few times.

08:52:01 **23** **Q.** Did you ever meet with Marwan El-Hindi and
08:52:05 **24** Mohammad Amawi at Marwan El-Hindi's home?

08:52:07 **25** **MR. HARTMAN:** I'm going to object. This is

08:52:10 **1** awfully leading.

08:52:11 **2** THE COURT: I agree.

08:52:12 **3** MR. SOFER: I don't believe under the

08:52:13 **4** circumstances --

08:52:14 **5** THE COURT: It is leading the witness.

08:52:16 **6** MR. SOFER: Okay.

08:52:19 **7** THE COURT: I suppose that's okay in terms

08:52:22 **8** of directional leading.

08:52:24 **9** MR. SOFER: I'm just trying to get us --

08:52:27 **10** THE COURT: No problem. In terms of what I

08:52:29 **11** call a roadside leading is fine, but a roadmap leading

08:52:36 **12** is something different.

08:52:39 **13** BY MR. SOFER:

08:52:40 **14** **Q.** These times that you met with more than one

08:52:42 **15** defendant at a time, did you record those interactions?

08:52:45 **16** **A.** Yes, I did.

08:52:46 **17** **Q.** Were there times when one or more of the

08:52:49 **18** defendants mentioned another defendant?

08:52:52 **19** **A.** Yes.

08:52:54 **20** **Q.** And did you record some of those conversations as

08:52:57 **21** well?

08:52:57 **22** **A.** Yes.

08:52:59 **23** **Q.** Were there times on occasion when one or more of

08:53:03 **24** the defendants called on the phone in your presence one

08:53:06 **25** or more of the other defendants?

08:53:08 1 A. Yes.

08:53:08 2 Q. Did you record some or all of those conversations
08:53:12 3 as well?

08:53:13 4 A. Yes.

08:53:15 5 Q. Mr. Ivey asked you some questions about the
08:53:18 6 meeting on February 16, 2005, at Marwan El-Hindi's home.
08:53:21 7 I think he asked you a whole series of questions. Did
08:53:29 8 Marwan El-Hindi ever ask you to leave his home after you
08:53:34 9 made the remarks that you did?

08:53:36 10 A. No, he did not.

08:53:37 11 Q. And did he ever say, Don't mention these things
08:53:41 12 in front of my children?

08:53:42 13 MR. IVEY: Judge, objection. Can we
08:53:44 14 approach, please?

08:53:46 15 (Whereupon the following discussion was had
08:56:54 16 at the bench outside the hearing of the jury:)

08:56:54 17 MR. HARTMAN: My objection is that we were
08:56:54 18 specifically not allowed to get into the fact that in
08:56:54 19 this Arab culture that kind of thing doesn't happen. I
08:56:54 20 don't think it's fair to allow the government to then go
08:56:54 21 ahead and use it if we weren't allowed to go there and
08:56:54 22 show that it doesn't happen.

08:56:54 23 MR. SOFER: I don't know what culture --

08:56:54 24 THE COURT: I disagree. Again, the fact
08:56:54 25 that something is a cultural norm or moray, I don't

08:56:54 1 think there's enough of a nexus to say, well, that's
08:56:54 2 what was happening in this circumstance or this
08:56:54 3 happened. There just isn't. Again, if somebody -- I
08:56:54 4 realize it's a -- if he wants to come forward and say,
08:56:54 5 look, this is the way I was brought up; I never, ever do
08:56:54 6 X, Y, or Z, and this is why. But to bring in somebody
08:56:54 7 who then purports to say: Look, this is the way our
08:56:54 8 culture operates; all drivers in New York City are rude.
08:56:54 9 Therefore, if this happened, that's because all drivers
08:56:54 10 in New York City are rude. There's just not a nexus or
08:56:54 11 connection.

08:56:54 12 Now, I thought your objection was to the
08:56:54 13 form of the question. I realize it's a very slight
08:56:54 14 difference, but: When, if ever, did Mr. El-Hindi --

08:56:54 15 MR. SOFER: I can do that, Judge. I'm
08:56:54 16 sorry. I really am just trying to stop us --

08:56:54 17 THE COURT: That's fine.

08:56:54 18 MR. SOFER: My intention this morning is to
08:56:54 19 go as fast as I possibly can.

08:56:54 20 THE COURT: Candidly, folks, so everybody
08:56:54 21 understands, I am phobic about leading the witness on
08:56:54 22 redirect. It's just an evidentiary tick of mine.

08:56:54 23 That was one of my trigger reactions. There obviously
08:56:54 24 is -- there really is a difference between the
08:56:54 25 direction, did you call, did you meet with them

08:56:54 **1** separately? When did that occur?

08:56:54 **2** MR. SOFER: I have no problem doing that.

08:56:54 **3** THE COURT: The witness, as he did there,

08:56:54 **4** other sorts of training, anything else, perhaps two

08:56:54 **5** firearms; that kind of jog-your-memory leading is fine.

08:56:54 **6** MR. SOFER: I understand what Your Honor is

08:56:54 **7** saying, but the question: Did he ever? I don't know

08:56:54 **8** that that -- or when if, if ever. I understand the

08:56:54 **9** difference.

08:56:54 **10** THE COURT: That's what --

08:56:54 **11** MR. SOFER: Very well. I will follow your --

08:56:54 **12** (End of sidebar discussion.)

08:57:00 **13** THE COURT: I'm going to sustain the

08:57:04 **14** objection, but you can re-ask it, rephrase it.

08:57:08 **15** MR. SOFER: Okay.

08:57:09 **16** BY MR. SOFER:

08:57:11 **17** **Q.** I was asking you during the time that you were

08:57:13 **18** with Marwan El-Hindi and saying the things that you did,

08:57:18 **19** the defendants were saying the things that they did, did

08:57:21 **20** there ever come a time -- or when, if ever, was there a

08:57:24 **21** time when Marwan El-Hindi asked you not to mention these

08:57:29 **22** matters in front of his children?

08:57:31 **23** **A.** No, Mr. El-Hindi did not.

08:57:36 **24** **Q.** Likewise when the books were handed out, did

08:57:39 **25** there come a time at all when any of them said, I'm out

08:57:44 **1** of here; I don't want to see that; Get away from me;
08:57:48 **2** please leave?

08:57:49 **3** **A.** No, they did not.

08:57:51 **4** **Q.** When you talked about violent jihad on February
08:57:55 **5** 16, 2005, did there ever come a time that any of them
08:58:00 **6** ever stated any kind of concern about discussing these
08:58:04 **7** topics?

08:58:06 **8** **A.** No. Only the aspect of do not mention these
08:58:11 **9** things out in public, you know, around others. But
08:58:15 **10** while we were together as a whole, permissible.

08:58:19 **11** **Q.** Did there come a time when you went to another
08:58:22 **12** area of Marwan El-Hindi's home after the initial
08:58:25 **13** interaction with the defendants in the living room area?

08:58:29 **14** **A.** On February 16, yes.

08:58:31 **15** **Q.** And can you tell us where it is that you went?

08:58:38 **16** **A.** We went to a room in the rear; I believe it's the
08:58:43 **17** second bedroom on the left at the Main Street address.

08:58:47 **18** **Q.** Can you tell the members of the jury what, if
08:58:49 **19** anything, you did there?

08:58:50 **20** **A.** We viewed jihadist videos.

08:58:54 **21** **Q.** Can you tell us, if you know, what kind of --
08:58:59 **22** among other things, what these videos depicted?

08:59:02 **23** **A.** Basically attacks overseas.

08:59:10 **24** **Q.** After this meeting on February 16, 2005 at Marwan
08:59:13 **25** El-Hindi's house, did you return on occasion to Marwan

08:59:16 **1** El-Hindi's home?

08:59:17 **2** A. Yes, I did.

08:59:19 **3** Q. And did there come a time when you interacted
08:59:24 **4** with each of the defendants, not necessarily all
08:59:27 **5** together, after February 16, 2005?

08:59:29 **6** A. Yes.

08:59:32 **7** Q. Mr. Ivey asked you about a meeting on June 30,
08:59:36 **8** 2004, I believe he asked you whether Mohammad Amawi had
08:59:39 **9** picked up the term shehada in a particular conversation.

08:59:43 **10** Do you remember that questioning?

08:59:45 **11** A. Yes.

08:59:47 **12** Q. Do you recall whether or not that conversation
08:59:50 **13** was longer than the conversation that Mr. Ivey played
08:59:53 **14** for you in court?

08:59:54 **15** A. It was.

08:59:55 **16** Q. I'm going to ask us to play -- and please assume
09:00:01 **17** the position; put on the headphones, please.

09:00:06 **18** MR. IVEY: Objection. May we approach?

09:00:10 **19** (Whereupon the following discussion was had
09:09:44 **20** at the bench outside the hearing of the jury:)

09:09:44 **21** THE COURT: Mr. Ivey.

09:09:44 **22** MR. IVEY: Thank you, Your Honor. Under
09:09:44 **23** the same principle that we were -- under under the rule
09:09:44 **24** of completeness, we would like -- the government should
09:09:44 **25** be required to play what's before and after what they're

09:09:44 1 going to play here. They already invoked this rule and
09:09:44 2 played additional -- what they felt was additionally
09:09:44 3 fair.

09:09:44 4 THE COURT: Are you able to do that or no?

09:09:44 5 MR. SOFER: Can I describe where we are with
09:09:44 6 this? This is what we've done in the day that we had to
09:09:44 7 do it.

09:09:44 8 THE COURT: I understand.

09:09:44 9 MR. SOFER: If anything, I think what we're
09:09:44 10 doing here is invoking the rule of completeness.

09:09:44 11 MR. BRYAN: That's what we were trying to do
09:09:44 12 on cross-examination, and we were not permitted to do
09:09:44 13 that.

09:09:44 14 THE COURT: Time out.

09:09:44 15 MR. SOFER: As I was saying, the basic
09:09:44 16 concept of what we're trying to do with redirect is just
09:09:44 17 make sure that the pieces that were played for the
09:09:44 18 witness in cross-examination are put into a proper
09:09:44 19 context. Here's an example. For instance, this was a
09:09:44 20 perfect one where counsel questioned the witness, said,
09:09:44 21 Oh, you brought this shehada concept up, and he didn't
09:09:44 22 really pick up on it. Well, it turns out in the early
09:09:44 23 parts of that conversation, the discussion of jihad
09:09:44 24 comes up, and it's not the first time that this kind of
09:09:44 25 thing is being discussed. First of all, this is a

09:09:44 1 recording that the defense played, that the government
09:09:44 2 played a portion of already. If anything, we're -- as I
09:09:44 3 say, if anything, we're expanding the amount that's been
09:09:44 4 played. I don't believe that a rule of completeness
09:09:44 5 argument applies at all to this.

09:09:44 6 THE COURT: I would tend to agree with that.

09:09:44 7 MR. IVEY: Your Honor, if I can. When I
09:09:44 8 played my clip, the government invoked the rule of
09:09:44 9 completeness then. We took a recess, and then they
09:09:44 10 played the additional parts they thought were relevant.
09:09:44 11 So that's already been invoked and done. Anything
09:09:44 12 beyond that is going beyond the scope of
09:09:44 13 cross-examination. It's already been put in context.

09:09:44 14 THE COURT: This is classic redirected
09:09:44 15 because you inquired into subject A in a particular way
09:09:44 16 to have the jury draw a particular inference. And he's
09:09:44 17 saying, well, that, in effect, ladies and gentlemen,
09:09:44 18 that inference is not the correct inference to draw with
09:09:44 19 regard to subject A because here's further evidence
09:09:44 20 about it.

09:09:44 21 MR. IVEY: I don't dispute his right to do
09:09:44 22 that. What I'm disputing is his right to do that with
09:09:44 23 playing additional clips because he's already invoked
09:09:44 24 and already played the additional clips when I did it
09:09:44 25 the first time and already put it in context. He's

09:09:44 1 going beyond that and playing this clip.

09:09:44 2 MR. SOFER: Just to be clear --

09:09:44 3 THE COURT: Let me hear from Mr. Bryan.

09:09:44 4 MR. BRYAN: Your Honor, if I play -- this

09:09:44 5 takes us back to this whole debacle when it began during

09:09:44 6 cross-examination when Mr. Ivey stood up to play our

09:09:44 7 clips that filled in the gaps. The government came in

09:09:44 8 somewhat disingenuously, said: Oh, we want to do the

09:09:44 9 rule of completeness, which forced us into a tactical

09:09:44 10 disadvantage of having to play all of the bad stuff

09:09:44 11 again after we played the stuff to put it in its proper

09:09:44 12 context. What we were trying to do on

09:09:44 13 cross-examination was invoke the rule of completeness by

09:09:44 14 playing -- and these were -- playing additional

09:09:44 15 portions.

09:09:44 16 THE COURT: Let me only say, it was called

09:09:44 17 to do my attention in that discussion. I could have

09:09:44 18 then ruled; say, too bad, too late, move on down the

09:09:44 19 road. You didn't do it.

09:09:44 20 MR. BRYAN: This takes us back to before

09:09:44 21 trial with this whole debacle concerning the

09:09:44 22 transcripts. Your Honor made it clear before trial.

09:09:44 23 The government can present whatever they wanted to on

09:09:44 24 direct examination; you can play whatever you want as it

09:09:44 25 relates to stuff that they already played on

09:09:44 1 cross-examination. Then we tried to do that. The
09:09:44 2 rules changed. Everything got changed in the middle of
09:09:44 3 the trial. Your Honor had broad discretion how to
09:09:44 4 interpret the rule of completeness. We tried to
09:09:44 5 complete the record on cross-examination, but then you
09:09:44 6 gave the government --

09:09:44 7 THE COURT: I thought I let you.

09:09:44 8 MR. BRYAN: No, but we had to do it at the
09:09:44 9 tactical disadvantage of replaying all of the stuff that
09:09:44 10 the government had already played. So here we are
09:09:44 11 echoing everything the government already did in direct,
09:09:44 12 totally watering down the effect of trying to complete
09:09:44 13 the picture for the jury. And the justification for
09:09:44 14 allowing the government to do that was, Well, it's been
09:09:44 15 a long time; the jury may not know exactly where this
09:09:44 16 conversation was at this juncture. Which to me, at the
09:09:44 17 time that -- we argued vigorously at the time that that
09:09:44 18 was patently unfair because the record is what the
09:09:44 19 record is. They could have came back in closing
09:09:44 20 argument and played the whole thing. They cherry pick
09:09:44 21 the evidence all the way through direct examination. We
09:09:44 22 sat back thinking, based upon the Court's prior
09:09:44 23 statements to the defense, that, well, you know, we're
09:09:44 24 going to be able to get up in cross-examination and fill
09:09:44 25 in the gaps. Then when we were told that we're going

09:09:44 1 to be able to fill in the gaps, then we were told that
09:09:44 2 we had to play their stuff again. It was patently
09:09:44 3 unfair. It was a tactical move on their part that Your
09:09:44 4 Honor basically, in essence, took the bait on. And I
09:09:44 5 think it was disingenuous for them to argue it that way.
09:09:44 6 It's also disingenuous for Mr. Sofer to say, Your Honor,
09:09:44 7 we didn't know what we were going to play in redirect.
09:09:44 8 He told Mr. Ivey -- he's been misleading the Court all
09:09:44 9 the way through this trial with his little
09:09:44 10 Oh-Your-Honor, holier-than-thou attitude. But what he
09:09:44 11 told Mr. Ivey two days ago is we already know what clips
09:09:44 12 we're going to replay on Amawi. We're still working on
09:09:44 13 the other ones. We didn't get their clips until 11:30
09:09:44 14 last night of Mr. Amawi. There's 80 some pages of
09:09:44 15 clips. They're going to do the same thing.

09:09:44 16 MR. HARTMAN: Valerie said they can hear
09:09:44 17 you.

09:09:44 18 THE COURT: Watch your tone when you're
09:09:44 19 speaking to me. I'll tell you once again; watch your
09:09:44 20 tone when you're speaking to me. This is a difficult
09:09:44 21 case and a hard-fought case. Watch your tone when
09:09:44 22 you're speaking to the Court. Not me individually, but
09:09:44 23 to the United States District Court.

09:09:44 24 MR. BRYAN: I apologize, Your Honor. No
09:09:44 25 disrespect is intended.

09:09:44 1 THE COURT: Well, it's being communicated.

09:09:44 2 I'm going to warn you once.

09:09:44 3 MR. BRYAN: I agree, Your Honor, it's a very
09:09:44 4 emotional case.

09:09:44 5 What the government did in direct
09:09:44 6 examination, we're just learning what most of this
09:09:44 7 evidence is literally during the government's case. I
09:09:44 8 know a lot of it because of the hours I spent with Mr.
09:09:44 9 Amawi. I'm with him until midnight every night going
09:09:44 10 over transcripts. I was with him until midnight last
09:09:44 11 night again. I'm horrified at the number of
09:09:45 12 mistranscriptions and errors in transcription that
09:09:45 13 because of our late arrival to the case we didn't have
09:09:45 14 the ability to deal with pretrial, so now we're trying
09:09:45 15 to deal with them during trial. And what the
09:09:45 16 government did during direct examination is they cherry
09:09:45 17 picked the evidence. We probably --

09:09:45 18 THE COURT: Anyway, what are we talking
09:09:45 19 about now?

09:09:45 20 MR. BRYAN: We're talking about the rule of
09:09:45 21 completeness, Your Honor. During our cross-examination
09:09:45 22 they were allowed to invoke that rule even though they
09:09:45 23 had already played their clips during direct
09:09:45 24 examination. We completed it during cross. They
09:09:45 25 didn't -- they shouldn't have had the opportunity then

09:09:45 **1** to replay their stuff.

09:09:45 **2** THE COURT: Well, they did, for for reasons
09:09:45 **3** I expressed at the time.

09:09:45 **4** MR. BRYAN: And I would submit to Your Honor
09:09:45 **5** respectfully that that was an incorrect ruling at that
09:09:45 **6** time. And I would submit that the only way to cure
09:09:45 **7** that ruling is to allow us now to play the full
09:09:45 **8** transcript during their redirect examination, the same
09:09:45 **9** way that they were able to invoke the rule of
09:09:45 **10** completeness to make us play large segments of their
09:09:45 **11** transcript during cross-examination.

09:09:45 **12** MR. SOFER: Judge, if I can just respond.

09:09:45 **13** First of all, I, for the record --

09:09:45 **14** THE COURT: Tell me -- respond to what he
09:09:45 **15** says.

09:09:45 **16** MR. SOFER: Well, he's leveled a number of
09:09:45 **17** allegations against me personally and the government.
09:09:45 **18** I would just like for the record to object to that.

09:09:45 **19** THE COURT: I paid no attention.

09:09:45 **20** MR. SOFER: Understood, Your Honor.

09:09:45 **21** Second of all, I have obviously a different
09:09:45 **22** view of the way that this happened. Again, all we're
09:09:45 **23** doing here -- we can take these one by one if you want,
09:09:45 **24** although I think that would be a mistake -- is we are
09:09:45 **25** completing the record. Now, technically it's not the

09:09:45 **1** rule of completeness. The rule of completeness has to
09:09:45 **2** do with when -- all we ever asked was, and I think the
09:09:45 **3** Court made the absolute correct ruling, is if it turns
09:09:45 **4** out you're cutting something off before it should be cut
09:09:45 **5** off in let's say in a particular type --

09:09:45 **6** THE COURT: I understand. This is not the
09:09:45 **7** rule of completeness.

09:09:45 **8** MR. SOFER: That is not what we're doing.
09:09:45 **9** So I think it's --

09:09:45 **10** THE COURT: You have permission to do it.
09:09:45 **11** MR. SOFER: Thank you, Judge.
09:09:45 **12** MR. BRYAN: On recross, Your Honor, we'll
09:09:45 **13** fill in the gaps.

09:09:45 **14** THE COURT: I understand.

09:09:45 **15** (End of sidebar discussion.)

09:09:48 **16** MR. BOSS: Could we have the date again?
09:09:51 **17** MR. SOFER: June 30, 2004. 1D-84. Our
09:09:56 **18** clip is now called RD-84, and we're going to play it.

09:10:09 **19** (Audio is played.)

09:10:23 **20** MR. BOSS: Your Honor, could we have a
09:10:26 **21** moment, please?

09:10:30 **22** (Discussion had off the record.)

09:10:58 **23** MR. BOSS: For defense counsel it's on the
09:11:00 **24** second page of transcripts that they've been sent.

09:11:05 **25** MR. SOFER: That's because we had to skip

09:11:06 **1** through something. He just had to flip the page over.

09:11:16 **2** MR. SOFER: Start the clip over.

09:11:17 **3** (Audio is played.)

09:12:32 **4** BY MR. SOFER:

09:12:33 **5** **Q.** This conversation continued past that particular

09:12:37 **6** clip; is that correct?

09:12:38 **7** **A.** Yes.

09:12:40 **8** **Q.** And we're going to play clip 2, please. I

09:12:45 **9** believe this is the portion Mr. Ivey had you listen to.

09:12:49 **10** THE COURT: Just for the record, I note a

09:12:52 **11** continuing objection on the part of counsel.

09:12:55 **12** (Audio is played.)

09:17:29 **13** BY MR. SOFER:

09:17:29 **14** **Q.** Again, this conversation that Mr. Ivey asked you

09:17:32 **15** about, did it continue a little further?

09:17:34 **16** **A.** Yes.

09:17:38 **17** MR. SOFER: If we can play clip 3.

09:17:42 **18** (Audio is played.)

09:19:07 **19** BY MR. SOFER:

09:19:08 **20** **Q.** Mr. Griffin, I think you also told Mr. Ivey that

09:19:14 **21** on one or more occasions you were proactive in your

09:19:17 **22** approach. Can you describe for the jury what you meant

09:19:20 **23** by that?

09:19:20 **24** **A.** Yes. Basically in this last clip where -- the

09:19:29 **25** last three clips, excuse me, where I talked about going

09:19:35 1 the way of the shehada, martyrdom, he was talking about
09:19:41 2 a woman before that, thinking about getting married.
09:19:44 3 One of the challenges I had as being -- in doing this
09:19:48 4 gathering information is that there would have been
09:19:52 5 questions about, hey, why don't I have a wife? So to
09:19:56 6 counter that, basically, I was going to say, hey, I'm
09:20:00 7 committing my life for jihad, so I don't have time to
09:20:03 8 get married. So basically being proactive in that
09:20:06 9 sense. So -- but the question still comes up, and
09:20:10 10 that's how I fought it, even in other conversations the
09:20:15 11 same way.

09:20:15 12 Q. Now, Mr. Ivey also asked you a number of
09:20:19 13 questions about the things that you gave to Mr. Amawi
09:20:21 14 and his family, particularly around the time that you
09:20:24 15 traveled to Jordan in August of 2005, and beyond that on
09:20:27 16 the second trip. Can you give the jury a basic
09:20:31 17 estimate of approximately how much money or other
09:20:35 18 benefits as it were that you gave to Mohammad Amawi and
09:20:39 19 his family during the two years that you interacted with
09:20:42 20 him?

09:20:43 21 A. I guess my best guess would be between \$3,000 and
09:20:48 22 \$4,000.

09:20:52 23 Q. Specifically about this satellite phone, there's
09:20:56 24 no dispute, I don't believe, that the satellite phone
09:20:59 25 bills were enormous. But what did you tell Mohammad

09:21:02 **1** Amawi about how much these satellite phone bills were?

09:21:05 **2** **A.** Basically that it was a monthly flat rate between

09:21:09 **3** \$250 and \$500.

09:21:12 **4** **Q.** And did you receive these bills or did Mohammad

09:21:14 **5** Amawi receive these bills to your knowledge?

09:21:16 **6** **A.** I received those bills.

09:21:19 **7** **Q.** If you know, did anyone else in your presence

09:21:23 **8** ever tell Mohammad Amawi how much these bills really

09:21:26 **9** were?

09:21:27 **10** MR. HARTMAN: Objection. Hearsay.

09:21:30 **11** MR. SOFER: It's not being introduced for its

09:21:33 **12** truth, Your Honor.

09:21:33 **13** THE COURT: It's simply to show the

09:21:35 **14** statement was made, not considered for the truth of this

09:21:38 **15** matter necessarily, if anything. Go ahead.

09:21:42 **16** **A.** No, he was not.

09:21:43 **17** **Q.** Mr. Ivey asked you about the businesses that

09:21:47 **18** Mohammad Amawi was setting up in Jordan after your first

09:21:50 **19** trip. Can you give the members of the jury a basic

09:21:52 **20** understanding of what these businesses were and how they

09:21:56 **21** related to your conversations with Mohammad Amawi?

09:21:59 **22** **A.** Basically the businesses were to be set up to

09:22:04 **23** support ourselves and to support the jihadists.

09:22:11 **24** MR. IVEY: Objection.

09:22:13 **25** THE COURT: Basis? Come on up.

09:22:13 **1** (The following discussion was had at the
09:23:14 **2** bench outside the hearing of the jury:)
09:23:14 **3** THE COURT: Go ahead.
09:23:14 **4** MR. IVEY: The Court has not been permitting
09:23:14 **5** witnesses to testify about the intention or purpose of
09:23:14 **6** others in the in a direct question like that. That's
09:23:14 **7** my objection.
09:23:14 **8** MR. SOFER: I'll ask it a different way.
09:23:14 **9** THE COURT: I'll sustain the objection.
09:23:14 **10** MR. SOFER: Then I'm going to follow it up.
09:23:14 **11** THE COURT: Whatever.
09:23:14 **12** (End of sidebar discussion.)
09:23:16 **13** THE COURT: Ladies and gentlemen, I
09:23:19 **14** sustained the objection to the question about the
09:23:22 **15** purpose, and I instruct you to disregard the question
09:23:27 **16** and disregard the answer.
09:23:29 **17** Mr. Sofer, you may continue.
09:23:31 **18** BY MR. SOFER:
09:23:31 **19** **Q.** Did you have conversations with Mohammad Amawi
09:23:33 **20** about the purpose of setting up these businesses before
09:23:37 **21** they were set up?
09:23:37 **22** **A.** Yes.
09:23:39 **23** **Q.** And can you basically describe what those -- what
09:23:43 **24** Mohammad Amawi and you discussed?
09:23:45 **25** **A.** About supplying capital to help ourselves and to

09:23:51 **1** help the brothers for one instance, a brother in Syria,
09:23:57 **2** and for brothers crossing into Iraq.

09:23:59 **3** Q. The businesses themselves were legitimate --

09:24:02 **4** A. Yes.

09:24:03 **5** Q. -- as far as you know?

09:24:04 **6** A. As far as I know, yes.

09:24:05 **7** Q. A number of the defense attorneys asked you

09:24:09 **8** questions about you initiating conversations,

09:24:12 **9** recommending things to the defendants. Were there

09:24:15 **10** times when it was the defendant -- I think actually once

09:24:19 **11** or twice you said that you had dominated conversations

09:24:22 **12** as well on occasion?

09:24:23 **13** A. Yes.

09:24:24 **14** Q. Maybe even a decent number of the conversations

09:24:27 **15** that you've had with the Defendants?

09:24:28 **16** A. Yes.

09:24:29 **17** Q. Were there times when indeed it was the other way

09:24:34 **18** around?

09:24:35 **19** A. Yes.

09:24:35 **20** Q. And if we could please play -- this is now 57,

09:24:42 **21** 69185-1?

09:24:47 **22** MR. BOSS: Could we have a date, please?

09:24:49 **23** MR. SOFER: The date is 4/29/05.

09:25:27 **24** (Audio is played.)

09:25:27 **25** BY MR. SOFER:

09:25:27 **1** Q. Do you know what it is that Mohammad Amawi is
09:25:29 **2** referring to here?

09:25:30 **3** A. The e-mail address for my contact overseas.

09:27:38 **4** Q. Let's play 66-1. That's from May 18, 2005.

09:29:36 **5** (Audio is played.)

09:31:59 **6** BY MR. SOFER:

09:32:00 **7** Q. Okay, Mr. Griffin. I'm going to turn now to
09:32:04 **8** some of the questions that Mr. Doughten asked. Let's
09:32:09 **9** go back to those videos that Mr. Ivey asked you about.

09:32:14 **10** To start with, Exhibit Number 23. Again I'm going to
09:32:19 **11** ask you to describe for the jury, if you can, what
09:32:22 **12** training value, if any, these particular videos would
09:32:26 **13** have in your mind. Again, on this one I believe Mr.
09:32:31 **14** Ivey asked you if it shows you how to build a bomb.

09:32:39 **15** THE COURT: What exhibit?

09:32:40 **16** MR. SOFER: Government's Exhibit Number 23,

09:32:42 **17** Your Honor.

09:32:55 **18** (Video is played.)

09:33:04 **19** BY MR. SOFER:

09:33:04 **20** Q. Again, do you recognize the symbol that's on
09:33:07 **21** there?

09:33:07 **22** A. Yes.

09:33:07 **23** Q. Tell the members of the jury what it is?

09:33:09 **24** A. It's the Al-Qaeda in Iraq symbol.

09:33:54 **25** BY MR. SOFER:

09:33:54 **1** **Q.** The record should reflect the government stopped
09:33:56 **2** this at 52 seconds of 2 minutes, 22 seconds.

09:34:02 **3** Again, does this show you how to build a bomb?

09:34:04 **4** **A.** No, it does not.

09:34:05 **5** **Q.** Does it have training value?

09:34:06 **6** **A.** Yes, it does.

09:34:07 **7** **Q.** Can you give us a basic description of what
09:34:09 **8** training value it has?

09:34:10 **9** **A.** Basically it has the implementation of the
09:34:13 **10** execution of a car bomb and the taping of that.

09:34:18 **11** MR. SOFER: Let's continue with Government's
09:34:21 **12** Exhibit Number 24.

09:35:56 **13** BY MR. SOFER:

09:35:56 **14** **Q.** Again, Mr. Griffin, can you tell the members of
09:35:58 **15** the jury what, if any, training --

09:36:03 **16** MR. HARTMAN: Objection, Judge. May we
09:36:06 **17** approach?

09:36:07 **18** (Whereupon the following discussion was had
09:38:12 **19** at the bench outside the hearing of the jury:)

09:38:12 **20** MR. HARTMAN: The basis for the objection is
09:38:12 **21** there was clearly Arabic conversation going on when they
09:38:12 **22** were showing that bomb. We don't know if they were
09:38:12 **23** talking about training or what a pretty bomb. I don't
09:38:12 **24** think you can say the training value unless there's a
09:38:12 **25** translation there to show what they're talking about

09:38:12 **1** when they're showing it.

09:38:12 **2** MR. SOFER: We'd be happy to put in all the
09:38:12 **3** translations, Judge.

09:38:12 **4** THE COURT: I disagree. Simply to the
09:38:12 **5** extent I assume he's going to say something to the
09:38:12 **6** effect, well, it shows placement and blowing up, or
09:38:12 **7** whatever. You can redirect and say, you know, that's
09:38:12 **8** his view and his opinion. The question I have is, it is
09:38:12 **9** an opinion. Where's the foundation for that opinion? I
09:38:12 **10** think there's something more, unless defense counsel
09:38:12 **11** don't want it. I mean, he's -- he could say
09:38:12 **12** practically everything has training value.

09:38:12 **13** MR. SOFER: I would not have gone here but
09:38:12 **14** for the fact those exact questions were asked of him on
09:38:12 **15** cross. So if they ask, does it have training value?
09:38:12 **16** And they ask, does this show how to do such and such?
09:38:12 **17** And he says no, then I think he should be permitted to
09:38:12 **18** say what it does show. As you say, Judge, in some
09:38:12 **19** sense they speak for themselves. On the other hand --

09:38:12 **20** THE COURT: I'm going to overrule this
09:38:12 **21** specific --

09:38:14 **22** (End of sidebar discussion.)

09:38:16 **23** THE COURT: You may continue.

09:38:17 **24** MR. SOFER: Your Honor, I'll ask the question
09:38:21 **25** again because I think the court reporter didn't get it

09:38:23 **1** all.

09:38:24 **2** BY MR. SOFER:

09:38:25 **3** **Q.** I asked, I believe, what, if any, training value

09:38:28 **4** did the video that is depicted in Government's Exhibit

09:38:31 **5** Number 24 have?

09:38:33 **6** **A.** It shows the layout and the preparation, the

09:38:36 **7** implementation and execution of a roadside bomb, and the

09:38:41 **8** recording of it.

09:38:46 **9** **Q.** Okay. Let's play Number 32, please, Government's

09:38:53 **10** Exhibit Number 32.

09:39:08 **11** MR. SOFER: We stopped the last video at 101

09:39:11 **12** for the record.

09:40:00 **13** (Video is played.)

09:40:47 **14** MR. SOFER: I paused it at 47 seconds of four

09:40:50 **15** minutes, 59 seconds.

09:40:50 **16** BY MR. SOFER:

09:40:52 **17** **Q.** Can you tell the members of the jury whether this

09:40:54 **18** has some training value?

09:40:55 **19** **A.** Yes, it does.

09:40:56 **20** **Q.** Can you tell us basically what it is?

09:40:58 **21** **A.** The preparation of a mortar round and the

09:41:02 **22** preparation of the actual tube.

09:41:18 **23** (Video is played.)

09:42:06 **24** BY MR. SOFER:

09:42:07 **25** **Q.** Again, I stopped it at one minute, 33 seconds.

09:42:10 **1** You said one of the things that you had -- were
09:42:13 **2** training and were going to train the defendants on was
09:42:16 **3** Mujahidin tactics; is that right?

09:42:17 **4** **A.** Correct.

09:42:18 **5** **Q.** Can you tell us basically what, if any, value one
09:42:21 **6** minute and 33 seconds and the little time before that,
09:42:24 **7** what training value that might have?

09:42:26 **8** **A.** Basically it depicts the preparation of an
09:42:32 **9** ambush. If you play it a little bit longer, we'll see
09:42:37 **10** that.

09:42:45 **11** (Video is played.)

09:44:11 **12** MR. SOFER: And the government stopped
09:44:12 **13** playing that at 3 minutes, five seconds.

09:44:19 **14** BY MR. SOFER:

09:44:20 **15** **Q.** During the course of the case did Mohammad Amawi
09:44:22 **16** give you disks and show you videos other than the ones
09:44:26 **17** that Mr. Ivey played for you during cross-examination?

09:44:29 **18** **A.** Yes.

09:44:29 **19** **Q.** And again, a very basic estimate of approximately
09:44:35 **20** how many videos do you think Mohammad Amawi showed you,
09:44:39 **21** played for you, or gave you during the course of this
09:44:42 **22** case?

09:44:43 **23** **A.** I would have to say conservatively upwards of 100
09:44:49 **24** or more videos.

09:44:52 **25** MR. SOFER: We're going to play Government's

09:44:55 **1** Exhibit Number 26. Again, I'm going to ask you

09:45:03 **2** basically what, if any, training value this video has.

09:45:33 **3** (Video is played.)

09:46:02 **4** BY MR. SOFER:

09:46:03 **5** Q. Tell the members of the jury what, if any,

09:46:04 **6** training value Government's Exhibit Number 26 has?

09:46:07 **7** A. Surveillance, placement, and execution of an IED.

09:46:14 **8** MR. SOFER: Play 101, please. For the

09:46:18 **9** record, we stopped at 35 seconds of 14 minutes and 50 --

09:46:27 **10** sorry, there's one more segment we're going to skip to

09:46:30 **11** at 10:58, I believe.

09:46:32 **12** Q. I'm going to ask you what, if any, training value

09:46:35 **13** this little segment has?

09:46:46 **14** MR. HARTMAN: Mr. Sofer --

09:46:47 **15** (Discussion had off the record.)

09:46:58 **16** (Video is played.)

09:48:29 **17** MR. SOFER: The government stopped the

09:48:32 **18** recording at 12:22 of 14:50.

09:48:32 **19** BY MR. SOFER:

09:48:37 **20** Q. I'd ask Mr. Griffin what, if any, training value

09:48:39 **21** you believe this has?

09:48:40 **22** A. Surveillance and information gathering on our

09:48:44 **23** troops as they respond to our injured troops overseas.

09:48:55 **24** Q. During your conversations with Mohammad Amawi and

09:48:57 **25** some of the recorded conversations that we've played,

09:49:00 **1** did Mohammad Amawi express interest in certain types of
09:49:03 **2** attacks?

09:49:03 **3** **A.** Yes.

09:49:04 **4** **Q.** Again, basically and in summary can you tell the
09:49:07 **5** members of the jury what some of those were?

09:49:08 **6** **A.** Stand off attacks like sniper attacks and like
09:49:13 **7** what we just viewed, IED attacks from an observation
09:49:18 **8** area.

09:49:21 **9** MR. SOFER: I want to play Exhibit Number
09:49:24 **10** 109. I think Mr. Ivey played you a portion of this but
09:49:27 **11** not the rest of it. I'd like to play the rest of it as
09:49:30 **12** well.

09:50:02 **13** (Video is played.)

09:51:24 **14** MR. SOFER: The government stopped the
09:51:26 **15** playing of this at 58 seconds of 1:06.

09:51:26 **16** BY MR. SOFER:

09:51:30 **17** **Q.** Can you tell the jury what, if any, training
09:51:32 **18** value that had?

09:51:32 **19** **A.** Basically it shows the tactics of the insurgents,
09:51:38 **20** an IED attack followed by the U.S. response followed by
09:51:42 **21** a secondary following attack, which was another IED
09:51:46 **22** attack.

09:51:52 **23** MR. SOFER: Let's play Exhibit 110. Here we
09:51:56 **24** tried this when counsel played it also, but the jury's
09:51:59 **25** and the Court's system video, it makes it very difficult

09:52:02 1 to see this one. So we put a monitor here. We'll see
09:52:06 2 if we can do any better with it. If not, I hope it
09:52:10 3 will work. I hope everyone will be able to see it. I
09:52:13 4 don't know in everyone will be able to see it or not.
09:52:20 5 Can everybody see that?

09:52:37 6 I'm not a technical expert, but I think this
09:52:40 7 is the problem.

09:52:41 8 THE COURT: Let the record show a plug being
09:52:44 9 put in.

09:52:45 10 MR. SOFER: I think when it's connected to
09:52:48 11 this, it has to be connected to something else.

09:52:51 12 THE COURT: I once took a vehicle to a
09:52:53 13 repair shop and was told I should have filled the gas
09:52:55 14 tank, so don't ask me to fix it.

09:53:03 15 MR. HARTMAN: You're going to hear about
09:53:04 16 that again, Judge.

09:53:06 17 THE COURT: Okay. All set?

09:53:21 18 MR. SOFER: Is it any better?

09:53:23 19 THE JUROR: It's the same.

09:53:46 20 (Video is played.)

09:54:22 21 BY MR. SOFER:

09:54:23 22 Q. Again, Mr. Griffin, can you tell the members of
09:54:24 23 the jury what, if any, training value that particular
09:54:27 24 video has?

09:54:28 25 A. It shows the bullet trace.

09:54:32 **1** Q. What do you mean by "bullet trace"?

09:54:34 **2** A. You can actually see the bullet leave from the
09:54:37 **3** weapon system onto the human target in this case, and
09:54:41 **4** the execution of a sniper attack.

09:54:49 **5** Q. We're going to try 111.

09:55:27 **6** (Video is played.)

09:55:34 **7** MR. SOFER: The government stopped this
09:55:36 **8** recording at 10:16.

09:55:36 **9** BY MR. SOFER:

09:55:38 **10** Q. I believe Mr. Ivey asked you, does this video
09:55:42 **11** show you how to strap a bomb on. You said no. Can
09:55:45 **12** you tell the members of the jury what, if anything, this
09:55:47 **13** does show in the way of training?

09:55:48 **14** A. The implementation and execution of a roadside
09:55:51 **15** bomb using a radio device.

09:55:55 **16** MR. SOFER: We're going to play exhibit
09:55:57 **17** number 38, please.

09:56:02 **18** (Video is played.)

10:00:12 **19** MR. SOFER: We're pausing at 3 minutes, 45
10:00:17 **20** seconds.

10:00:18 **21** BY MR. SOFER:

10:00:18 **22** Q. Mr. Griffin, this video goes on to show young
10:00:21 **23** people dead, women and children dead as well; is that
10:00:25 **24** right?

10:00:25 **25** A. Yes.

10:00:25 1 Q. I think you testified under cross-examination
10:00:27 2 Mohammad Amawi expressed sadness after watching this
10:00:30 3 video; is that right? Do you recall saying that?
10:00:32 4 A. I believe so.
10:00:33 5 Q. Did Mohammad Amawi express other emotions as
10:00:36 6 well?
10:00:36 7 A. Yes.
10:00:36 8 Q. What were those?
10:00:38 9 A. Anger.
10:00:40 10 Q. Were there occasions when Mohammad Amawi
10:00:43 11 expressed that kind of anger when viewing other videos
10:00:47 12 connected to this case?
10:00:48 13 A. Yes.
10:00:49 14 Q. And do you recall instances in which he ever
10:00:54 15 threatened any kind of violence after watching such
10:00:57 16 videos?
10:00:58 17 A. Yes.
10:00:58 18 Q. And we're going to play 1D-14. That's from
10:01:04 19 January 10, 2005. And it's clip 1.
10:01:14 20 MR. BOSS: Could we have that again, Mr.
10:01:16 21 Sofer, please.
10:01:17 22 MR. SOFER: Sure. It's the first page of
10:01:18 23 what you have. And it's from 1D-14 from January 10,
10:01:23 24 2005.
10:01:56 25 (Audio is played.)

10:04:17 **1** BY MR. SOFER:

10:04:17 **2** Q. Okay, Mr. Griffin, I want to turn to some of the
10:04:20 **3** questions that Mr. Doughten asked you now.

10:04:23 **4** THE COURT: Should we perhaps take a break?

10:04:25 **5** MR. SOFER: If you'd like, Your Honor.

10:04:27 **6** THE COURT: Why don't we. We'll try to
10:04:29 **7** resume in about 20 minutes or so.

10:05:16 **8** (Recess taken.)

10:24:24 **9** THE COURT: Mr. Sofer, you may resume.

10:24:26 **10** MR. SOFER: Mr. Griffin, as I said, I want to
10:24:29 **11** ask you a few questions about some of the questions that
10:24:32 **12** were asked of you by Mr. Doughten. I believe Mr.
10:24:37 **13** Doughten asked you about the meaning of the word "cell."
10:24:40 **14** He asked you if it was just a description for a group of
10:24:43 **15** people. I think you said the answer to that was yes.
10:24:46 **16** Does that refresh your recollection? Is that about what
10:24:49 **17** you said.

10:24:50 **18** A. Yes.

10:24:50 **19** Q. Did there come a time when you described what
10:24:53 **20** kind of cell was being set up in this case?

10:24:56 **21** A. Yes.

10:24:57 **22** Q. And at the time that you explained what kind of
10:25:01 **23** cell was being set up, did you give the individuals you
10:25:04 **24** were talking to an example?

10:25:06 **25** A. Yes, I did.

10:25:07 1 Q. Who was there and approximately when did this
10:25:10 2 occur among other times?

10:25:13 3 A. I believe it was the February 16, 2005 meeting.

10:25:18 4 Q. Was that the meeting inside of Marwan El-Hindi's
10:25:21 5 home?

10:25:21 6 A. Yes.

10:25:22 7 Q. And can you tell the members of the jury what
10:25:25 8 example you used related to what kind of cell that you
10:25:28 9 were setting up among the defendants?

10:25:31 10 A. I used the Mohamed Atta and the 9/11 highjackers,
10:25:35 11 the 9/11 example.

10:25:37 12 THE COURT: What was the date of that? I'm
10:25:39 13 sorry.

10:25:39 14 MR. SOFER: February 16, 2005, Your Honor.

10:25:49 15 May I inquire, Your Honor?

10:25:53 16 THE COURT: Of course. I'm sorry.

10:25:58 17 BY MR. SOFER:

10:25:58 18 Q. Now, a number of the defense attorneys asked you
10:26:01 19 a question about whether the activities that you were
10:26:04 20 participating in and the defendants were participating
10:26:06 21 in were illegal. I think you said that there were a
10:26:09 22 number of activities that were legal as far as you knew.

10:26:12 23 A. Yes.

10:26:13 24 Q. Can you give us an example from the case about a
10:26:16 25 kind of activity like that?

10:26:18 1 A. Going shooting at Cleland's.

10:26:23 2 Q. And did the defendants themselves talk about
10:26:27 3 certain activities being legal throughout the case?

10:26:31 4 A. Yes.

10:26:32 5 Q. And did you record some of those conversations?

10:26:35 6 A. Yes.

10:26:38 7 Q. And did you agree with them and also say things
10:26:38 8 about things being legal?

10:26:39 9 A. Yes.

10:26:40 10 Q. Can you tell the members of the jury why that
10:26:42 11 was?

10:26:43 12 A. From an outside looking in, for example, if we go
10:26:50 13 out to Cleland's and shoot from the outside, that's
10:26:52 14 perfectly legal. But from the inside --

10:26:54 15 MR. HARTMAN: Objection.

10:26:55 16 THE COURT: I would agree. In other words,
10:26:59 17 in terms -- to the extent he's saying what is or isn't
10:27:03 18 legal, I think it's permissible to ask testimony about
10:27:07 19 whatever conversation occurred, simply what he
10:27:12 20 considered to be legal or not.

10:27:14 21 MR. SOFER: I'm not asking whether it's legal
10:27:16 22 or not but why it is that he said those things.

10:27:19 23 THE COURT: Okay. When he testified his,
10:27:26 24 quote, understanding, close quote, that's okay. But in
10:27:29 25 terms of telling the jury what is or is not legal --

10:27:32 1 MR. SOFER: I agree, Your Honor.

10:27:33 2 THE COURT: So why don't you -- I'll strike
10:27:38 3 that portion of the answer, but you can re-ask or
10:27:40 4 rephrase.

10:27:42 5 BY MR. SOFER:

10:27:42 6 Q. Again, I'm asking you a specific question, Mr.
10:27:45 7 Griffin. Why did you agree, and why did you continue to
10:27:48 8 say that these things were legal, some of these things?

10:27:51 9 A. Because they were.

10:27:53 10 Q. But was there a reason behind saying this?

10:27:56 11 A. Yes. To basically -- looking at it once again,
10:28:13 12 it's totally legal to go shooting. And I was
10:28:17 13 participating in these things, and plus everything was
10:28:24 14 cloaked in my security company.

10:28:25 15 Q. When you say cloaked -- and you did use those
10:28:28 16 words on occasions, correct?

10:28:29 17 A. Yes.

10:28:30 18 Q. Can you tell the members of the jury why it is
10:28:32 19 you talked about cloaking things?

10:28:34 20 A. I talked about cloaking to describe how we would
10:28:39 21 cover our training or the purpose of the training that
10:28:43 22 we were doing in something that was not wrong, basically
10:28:50 23 going shooting.

10:28:52 24 Q. Mr. Doughten also asked you if you got people
10:28:56 25 together and you encouraged one or more of the

10:28:58 **1** defendants to recruit others. Do you remember him

10:29:01 **2** asking that question?

10:29:02 **3** **A.** Yes.

10:29:02 **4** **Q.** I believe that you did that kind of thing,

10:29:05 **5** correct?

10:29:05 **6** **A.** Yes.

10:29:05 **7** **Q.** Can you tell again the members of the jury why it

10:29:07 **8** is that you were doing that?

10:29:09 **9** **A.** Basically to identify other threats. I don't
10:29:13 **10** know who these men know, but they helped get my cover
10:29:21 **11** out, and then I can help identify other threats against
10:29:24 **12** the United States.

10:29:25 **13** **Q.** Did this work?

10:29:27 **14** **A.** Yes, it did.

10:29:28 **15** **Q.** Can you give the jury an example of how it
10:29:31 **16** worked?

10:29:31 **17** **A.** Basically Mohammad Amawi introduced me to Wassim
10:29:35 **18** Mazloum, and Marwan El-Hindi introduced me to the Zubair
10:29:43 **19** and Ahmed -- or Zubair and Khaleel Ahmed.

10:29:50 **20** **Q.** Did you talk directly to Wassim Mazloum about the
10:29:54 **21** jihad training you were providing before Mohammad Amawi
10:29:57 **22** brought him to you?

10:29:58 **23** **A.** I did not.

10:29:59 **24** **Q.** Mr. Doughten asked you if you had brought other
10:30:02 **25** people to shoot at Cleland's besides the defendants in

10:30:05 1 this case. Do you remember that?

10:30:06 2 A. Yes.

10:30:06 3 Q. Do you remember your answer about how many people
10:30:09 4 you brought to Cleland's to shoot?

10:30:10 5 A. I believe I said about a dozen.

10:30:12 6 Q. If you know, have any of those individuals been
10:30:14 7 arrested or charged as a result of those shooting
10:30:17 8 sessions?

10:30:17 9 MR. HARTMAN: Objection. Relevance.

10:30:21 10 THE COURT: I would tend to agree.

10:30:25 11 MR. SOFER: Okay.

10:30:25 12 THE COURT: Sustained. The jury should
10:30:27 13 disregard the question.

10:30:28 14 Q. What was the purpose of Mohammad Amawi and Wassim
10:30:33 15 Mazloum, if you know, going shooting with you on April
10:30:36 16 20, April 29 of 2005?

10:30:38 17 MR. IVEY: Objection.

10:30:39 18 THE COURT: Why don't you rephrase.

10:30:40 19 Q. Did you have conversations with both of those
10:30:42 20 defendants prior to going shooting?

10:30:44 21 A. Yes.

10:30:45 22 Q. Based on those conversations, can you tell us
10:30:48 23 what the purpose of those visits to Cleland's were?

10:30:51 24 A. It was to lay down a foundation for weapons
10:30:55 25 training, to move on to other weapons systems such as

10:31:00 **1** sniping to go into jihad.

10:31:04 **2** Q. Now, Mr. Doughten also asked you about a
10:31:07 **3** conversation between you, Wassim Mazloum and Mohammad
10:31:10 **4** Amawi on November 17, 2004. Do you recall him asking
10:31:14 **5** you a question about that conversation?

10:31:15 **6** A. Yes.

10:31:16 **7** Q. And I think he played a portion of it, and we're
10:31:19 **8** going to try to play -- it's noted as RD-10, 11-171,
10:31:26 **9** 2004.

10:31:31 **10** MR. DOUGHTEN: Your Honor, we didn't play
10:31:33 **11** any portion from 11-17.

10:31:33 **12** BY MR. SOFER:

10:31:35 **13** Q. Maybe he just asked you a question about it.
10:31:38 **14** It's possible. I apologize. I think what he did was
10:31:41 **15** show you a transcript. I misspoke. He showed you a
10:31:44 **16** transcript of that conversation; is that correct?

10:31:46 **17** A. Yes.

10:31:48 **18** THE COURT: Is that correct, Mr. Doughten?

10:31:51 **19** MR. DOUGHTEN: I believe so, yes.

10:31:55 **20** MR. SOFER: It's RD-10, from November 17,
10:32:01 **21** 2004.

10:32:02 **22** (Audio is played.)

10:32:41 **23** BY MR. SOFER:

10:32:41 **24** Q. What did you mean when you said Allah's work?
10:32:44 **25** A. To conduct jihad in the name of a religion.

10:32:48 1 (Audio is played.)

10:37:31 2 BY MR. SOFER:

10:37:34 3 Q. Mr. Griffin, did there come a time when Wassim

10:37:39 4 Mazloum and you also discussed the need not to talk

10:37:43 5 about certain aspects of what you and the defendants

10:37:46 6 were doing and planning?

10:37:48 7 A. Yes.

10:37:49 8 MR. SOFER: And we're going to play RD-52,

10:37:53 9 clip 1. It's from April 20, 2005, Your Honor.

10:38:02 10 (Video is played.)

10:38:38 11 BY MR. SOFER:

10:38:38 12 Q. Just so the jury understands, can you tell us if

10:38:41 13 you recall where you were at this time and what was

10:38:44 14 happening?

10:38:44 15 A. We were just leaving the Cleland's shooting

10:38:48 16 range.

10:38:53 17 (Video continues.)

10:40:21 18 BY MR. SOFER:

10:40:27 19 Q. Okay. One of the other questions Mr. Doughten

10:40:30 20 asked you was about receiving a phone call from Wassim

10:40:36 21 Mazloum when you were overseas with Mohammad Amawi, I

10:40:38 22 believe in the second trip; it may have been the first

10:40:41 23 one; I don't recall. Do you recall?

10:40:43 24 A. One of the trips, yes.

10:40:45 25 Q. And I think you said that you knew that Wassim

10:40:48 1 Mazloum had called you because there was something on
10:40:50 2 your phone; is that right?

10:40:51 3 A. Yes.

10:40:54 4 Q. Do you know whether Wassim Mazloum had access to
10:40:57 5 other telephones here in Toledo?

10:41:01 6 A. Yes.

10:41:04 7 MR. DOUGHTEN: Objection.

10:41:06 8 THE COURT: Basis?

10:41:08 9 MR. DOUGHTEN: Foundation for his knowledge.

10:41:11 10 THE COURT: Okay. How does he know?

10:41:11 11 BY MR. SOFER:

10:41:13 12 Q. How do you know?

10:41:14 13 A. He at least had another cell phone prior, and he
10:41:18 14 has a home phone.

10:41:20 15 Q. And did you answer this call when you were
10:41:24 16 overseas or not?

10:41:25 17 A. I did not.

10:41:27 18 Q. Do you recall whether you received a voice mail
10:41:29 19 or not?

10:41:30 20 A. I believe I did not.

10:41:36 21 Q. Now, Mr. Doughten asked you if you discussed the
10:41:39 22 car business with Wassim Mazloum during your interaction
10:41:42 23 with him. Do you remember that question from Mr.

10:41:44 24 Doughten?

10:41:44 25 A. Yes.

10:41:46 1 Q. Did you have a conversation with Wassim Mazloum
10:41:48 2 about him using his car business in the context of Iraq?

10:41:53 3 A. Yes.

10:41:54 4 Q. And did you have a different conversation with
10:41:57 5 him about using his car business for some legitimate
10:42:01 6 business with Mohammad Amawi when Mohammad Amawi was
10:42:04 7 over in Jordan?

10:42:05 8 A. Yes.

10:42:07 9 MR. SOFER: We're going to play 28, 69185-1.

10:42:12 10 It's RD-8, 991851. It's 2-16, of '05.

10:42:38 11 (Audio is played.)

10:43:37 12 BY MR. SOFER:

10:43:38 13 Q. Mr. Griffin, I want to ask you some questions
10:43:40 14 about the questioning from Mr. Boss now. Among other
10:43:43 15 things, Mr. Boss asked you about whether your work for
10:43:46 16 the FBI was as a result of some feelings of revenge.

10:43:49 17 Can you describe again to the members of the jury how it
10:43:52 18 was that you came to work for the FBI basically?

10:43:54 19 A. Basically shortly after 9/11 I was contacted by
10:43:59 20 my contact from the DEA, and he told me they were
10:44:03 21 putting a task force together in the area.

10:44:08 22 Q. Did there ever come a time when you contacted the
10:44:10 23 FBI directly to ask to work for them?

10:44:12 24 A. I did not.

10:44:14 25 Q. Mr. Boss asked you a question about being in, I

10:44:17 **1** think -- I don't remember what the question was,
10:44:19 **2** something you ended up saying you were an over-talker.
10:44:22 **3** Can you tell the members of the jury what you meant by
10:44:24 **4** that?
10:44:24 **5** **A.** Just basically to get my point across and to -- I
10:44:31 **6** don't know, just talk, talk over people to do that.
10:44:36 **7** **Q.** And was that a good thing or a bad thing as far
10:44:39 **8** as you're concerned?
10:44:40 **9** MR. HARTMAN: Objection.
10:44:43 **10** THE COURT: I think he can answer. That's
10:44:44 **11** okay. What do you mean?
10:44:47 **12** MR. SOFER: It will connect up in one second,
10:44:49 **13** Judge.
10:44:50 **14** THE COURT: Okay. Rude or -- the question's
10:44:54 **15** a little vague.
10:44:55 **16** BY MR. SOFER:
10:44:55 **17** **Q.** In the context of your work in the case, would
10:44:58 **18** you consider that a good thing or bad thing after having
10:45:01 **19** reviewed the conversations that were recorded?
10:45:03 **20** **A.** I believe it was a bad thing because if I would
10:45:06 **21** have kept my mouth quiet more, we would have heard -- we
10:45:11 **22** would have heard more on the recordings.
10:45:13 **23** **Q.** Now, were there times when one or more of the
10:45:16 **24** defendants -- you also told Mr. Boss that you dominated,
10:45:19 **25** I think was the word you used or he used to say there

10:45:22 1 were conversations, some of which you dominated; is that
10:45:26 2 correct?

10:45:26 3 A. Yes.

10:45:26 4 Q. And again, in this context with Mr. El-Hindi,
10:45:30 5 were there times when Marwan El-Hindi or one of the
10:45:32 6 other defendants dominated the conversations?

10:45:36 7 A. Yes.

10:45:38 8 Q. And here we're going to play not a conversation
10:45:41 9 with Mr. El-Hindi, but a conversation with the other two
10:45:44 10 defendants, Mr. Amawi and Mr. Mazloum, and it's 28,
10:45:50 11 69185-2A. It's from February 16, 2005.

10:47:42 12 (Audio is played.)

10:48:01 13 BY MR. SOFER:

10:48:02 14 Q. Mr. Boss asked you a series of questions about
10:48:04 15 whether you decided when to stop and start the
10:48:07 16 recordings. I believe you testified for the most part
10:48:10 17 you did; is that right?

10:48:12 18 A. Yes.

10:48:13 19 Q. After reviewing and listening to the recordings
10:48:15 20 in this case in preparation for your testimony, did you
10:48:17 21 hear occasions when the recording stopped on its own as
10:48:21 22 a result of the device stopping on its own?

10:48:22 23 A. Yes.

10:48:23 24 Q. Did you ever stop the recording, Mr. Griffin, in
10:48:28 25 order to avoid recording something that the defendants

10:48:31 1 were saying other than their prayers?

10:48:33 2 A. At no time.

10:48:34 3 Q. How would you have known when the defendants were

10:48:37 4 going to say something before they were going to say it?

10:48:40 5 A. I wouldn't have known.

10:48:41 6 Q. Did you enjoy spending hours with these

10:48:44 7 defendants?

10:48:45 8 MR. HELMICK: Objection.

10:48:46 9 THE COURT: Sustained.

10:48:47 10 MR. SOFER: Judge, I think it goes to -- may

10:48:50 11 we approach?

10:48:51 12 (Whereupon the following discussion was had

10:55:31 13 at the bench outside the hearing of the jury:)

10:55:31 14 THE COURT: The basis for the objection?

10:55:31 15 MR. HELMICK: The basis for the objection is

10:55:31 16 it is irrelevant whether he enjoyed it or didn't enjoy

10:55:31 17 it. It opens the door, Judge, to the type of response

10:55:31 18 that the jury really ought not to be hearing from the

10:55:31 19 witness, just like he shouldn't have been speculating a

10:55:31 20 little bit ago about what more they would have heard had

10:55:31 21 he not talked over them or interrupted so much. I

10:55:31 22 don't like where this is going.

10:55:31 23 MR. SOFER: Let me explain why I'm asking it,

10:55:31 24 and perhaps that will illuminate this. The defense, I

10:55:31 25 think, has put a regular -- has opened, and they asked

10:55:31 1 questions about Mr. Griffin sort of loving this and
10:55:31 2 being -- he had to get back in the game, and he was --
10:55:31 3 there was a ringer on his phone with 007 playing, and he
10:55:31 4 enjoyed his work, and he thinks this is the greatest
10:55:31 5 thing. They've also implied that he somehow had a
10:55:31 6 motivation to have these defendants talk more, and I
10:55:31 7 think there are instances, A, where the witness actually
10:55:31 8 tries to have them -- tries to get away from them
10:55:31 9 because he's had it with them.

10:55:31 10 THE COURT: Let me suggest two things.
10:55:31 11 Rather than, quote, enjoy, because, the word exciting
10:55:31 12 has been asked, do you find this exciting from time to
10:55:31 13 time? And let him say, no, it was boring, whatever.
10:55:31 14 And with regard to the point you were just making, I
10:55:31 15 think you can inquire about that too. Were there times
10:55:31 16 when you may have tried to terminate conversations, you
10:55:31 17 know. Those are -- they call for an area of appropriate
10:55:31 18 responses. But to, quote, enjoy. Candidly, if I were
10:55:31 19 a defense attorney, and he said, yes, I loved every
10:55:31 20 minute, or, I didn't, I think my question is going to
10:55:31 21 be, you were getting paid so much an hour, weren't you?
10:55:31 22 I'm just saying, it's not a very -- the reason I
10:55:31 23 objected to it -- "I object." Actually, I did that
10:55:31 24 once. I did that once. I was half asleep, and I
10:55:31 25 actually heard a question; I was a magistrate, a

10:55:31 1 non-jury claim. Woke everybody up, including myself.

10:55:31 2 But anyway, the reason I sustained it, it's

10:55:31 3 so open-ended, and it doesn't really connect --

10:55:31 4 MR. HELMICK: To be clear, what I want to

10:55:31 5 avoid is him going into any speculation about how he

10:55:31 6 detested doing this as a patriot, as a veteran. That's

10:55:31 7 where I'm afraid it's going. That's improper.

10:55:31 8 MR. SOFER: That's fine, but then I'll ask

10:55:31 9 Your Honor on summation to preclude an argument that

10:55:31 10 this man was somehow so into this that --

10:55:31 11 THE COURT: But I think you can ask the

10:55:31 12 question to get his views on that out other than as

10:55:31 13 open-ended as, quote, enjoy. You were asked whether

10:55:31 14 you were excited by this. How exciting was this?

10:55:31 15 Were there times when it was more exciting than others?

10:55:31 16 MR. SOFER: Was it boring? I'll tell you

10:55:31 17 another question.

10:55:31 18 THE COURT: It is leading to say, "Was it

10:55:31 19 boring?" But nonetheless, button it down. Jeff can

10:55:31 20 object.

10:55:31 21 MR. HELMICK: I'm not going to object to

10:55:31 22 these type of leading questions.

10:55:31 23 MR. SOFER: I'll modify it so we don't end

10:55:31 24 back up here in two seconds.

10:55:31 25 THE COURT: Do you think that's going to do

10:55:31 1 it?

10:55:31 2 MR. SOFER: No, I don't. But I do think,
10:55:31 3 one of the questions I'm going to ask him is -- and
10:55:31 4 again, it goes to this same concept, which is somehow
10:55:31 5 he -- and this is the point that the defense has made
10:55:31 6 many times, that he had to somehow keep this, I think,
10:55:31 7 money train open, statements going. It turns out the
10:55:31 8 government's position is had this money train stopped,
10:55:31 9 that is this particular investigation. Mr. Griffin was
10:55:31 10 doing lots of other things that would have kept him
10:55:31 11 fully employed. Because I'm going to ask him that
10:55:31 12 question because I think it goes directly to --

10:55:31 13 THE COURT: I'm not sure he can answer that
10:55:31 14 unless you have some statements that were made to him.
10:55:31 15 And if you do, that's fine.

10:55:31 16 MR. HARTMAN: You wouldn't let us get into
10:55:31 17 it.

10:55:31 18 MR. SOFER: I'll ask him whether he continue
10:55:31 19 to do work on other cases during the course of this.

10:55:31 20 THE COURT: Okay. That's fine.

10:55:31 21 THE COURT: Agent Coats --

10:55:31 22 MR. SOFER: He will.

10:55:31 23 THE COURT: I think that basically has him
10:55:31 24 vouching for the truth of statements that were told to
10:55:31 25 him.

10:55:31 1 MR. SOFER: That's fine, so long --

10:55:31 2 THE COURT: If they were made, if you want

10:55:31 3 to ask him about particular conversation he may have had

10:55:31 4 with regard to other activities and the likelihood that

10:55:31 5 they might be continuing, that's fine.

10:55:31 6 MR. SOFER: Very well. I'll lead him a

10:55:31 7 little through this.

10:55:31 8 MR. HARTMAN: We weren't allowed to go there

10:55:31 9 with him.

10:55:31 10 MR. SOFER: Go where?

10:55:31 11 MR. HARTMAN: When we asked him questions

10:55:31 12 about that, about other things that he was doing.

10:55:31 13 THE COURT: Not the details, but the fact he

10:55:31 14 was doing other things. That's in the record. It

10:55:31 15 wasn't that you -- you were not permitted to ask about

10:55:31 16 specific details about what they were.

10:55:31 17 MR. HELMICK: And you're not going there?

10:55:31 18 MR. HARTMAN: So you're just going to say

10:55:31 19 there was other work that he was doing?

10:55:31 20 THE COURT: Other projects that were

10:55:31 21 continuing, in effect.

10:55:31 22 MR. HARTMAN: Judge, also, he asked about

10:55:31 23 what -- about some bills. I'm wondering if you got

10:55:31 24 through those receipts because on redirect I think it's

10:55:31 25 entirely proper for us to talk about that if he didn't

10:55:31 1 tell the truth -- I mean recross.

10:55:31 2 THE COURT: Let's see. I did not.

10:55:31 3 MR. SOFER: We're talking about two different

10:55:31 4 things, expenses versus what he paid --

10:55:31 5 (End of sidebar discussion.)

10:55:34 6 THE COURT: Ladies and gentlemen, I

10:55:37 7 sustained the objection to the last question, but you

10:55:40 8 may rephrase and proceed.

10:55:41 9 MR. SOFER: Yes, Judge.

10:55:43 10 BY MR. SOFER:

10:55:44 11 Q. Were you excited during the hours of times that
10:55:47 12 you spent with Mohammad Amawi, Wassim Mazloum, and
10:55:50 13 Marwan El-Hindi?

10:55:52 14 A. I was not.

10:55:55 15 Q. Can you tell the members of the jury during this
10:55:56 16 time and as this particular investigation heated up, did
10:56:00 17 you continue to work on other investigations that you
10:56:04 18 were working on with the FBI?

10:56:05 19 A. Yes.

10:56:08 20 Q. Now, the defense attorneys also asked you a
10:56:10 21 number of questions about the clear and unambiguous, I
10:56:14 22 think is the wording that they used, in your discussions
10:56:17 23 with the defendants. Were you unclear with the
10:56:21 24 defendants on February 16, 2005, when you discussed the
10:56:25 25 purpose of the jihad training with all of them?

10:56:28 1 A. I was not.

10:56:29 2 MR. HARTMAN: Objection, Judge. That speaks
10:56:30 3 for itself.

10:56:31 4 THE COURT: I tend to agree. I think that
10:56:33 5 his characterization in that conclusory fashion will not
10:56:39 6 be allowed. It really asks for a conclusion.

10:56:42 7 MR. SOFER: The defense asked these questions
10:56:44 8 exactly the other way around. I'm just asking the same
10:56:46 9 question.

10:56:47 10 THE COURT: In any event, it's a leading
10:56:49 11 question. I'm going to sustain the objection on that
10:56:52 12 basis. Again, you can replay clips or reference to
10:56:56 13 specific conversations, whatever. But I'll sustain the
10:57:00 14 objection. And the jury will, I assume, see, if not
10:57:06 15 now, then at the close of the case, various portions of
10:57:09 16 various recordings and in closing argument.

10:57:13 17 All counsel will be able to argue the points
10:57:18 18 to you, and you draw the inferences that you draw.

10:57:21 19 Go ahead.

10:57:22 20 BY MR. SOFER:

10:57:23 21 Q. Were there times when you were unclear?

10:57:25 22 A. Yes.

10:57:25 23 Q. And can you tell the members of the jury why that
10:57:28 24 is?

10:57:28 25 A. It's -- it's just to act natural for the simple

10:57:35 1 fact I believe I probably said it too much, "jihad" and,
10:57:38 2 you know, certain specifics. It would be no different
10:57:42 3 than, say, when I was working for the DEA, if I was
10:57:46 4 going to meet for a drug buy, I wouldn't say, hey, bring
10:57:50 5 the cocaine, and I'll bring this much money over on the
10:57:54 6 phone. It's not natural. So we would use other
10:57:58 7 things, say other ways, be unclear, say, hey, bring that
10:58:02 8 stuff, I'll meet you over here kind of thing. It's no
10:58:05 9 different.

10:58:07 10 MR. SOFER: Along the lines of what Your
10:58:08 11 Honor suggested, we're going to play RD-29, 69185-3A,
10:58:14 12 please?

10:58:15 13 THE COURT: Date?

10:58:17 14 MR. SOFER: February 16, 2005.

11:03:17 15 (Video is played.)

11:03:20 16 BY MR. SOFER:

11:03:20 17 Q. By the way, were you able to tell whether Marwan
11:03:23 18 El-Hindi was present during that conversation?

11:03:25 19 A. Yes, I could.

11:03:27 20 Q. Mr. Boss asked you about Marwan El-Hindi not
11:03:30 21 being on the list of people that the FBI asked you to
11:03:33 22 collect information about initially. Do you recall
11:03:35 23 that question?

11:03:35 24 A. Yes.

11:03:36 25 Q. Was Marwan El-Hindi on the initial list?

11:03:39 1 A. He was not.

11:03:40 2 Q. And did you engage or why did you engage in
11:03:42 3 business activities and spend time with Marwan El-Hindi
11:03:45 4 in the earlier parts of -- later parts of 2001, 2002,
11:03:50 5 and then you went into 2003 and early 2004?

11:03:56 6 A. Basically he was in the circle of people of
11:04:00 7 interest that I was gathering information on. And
11:04:04 8 that -- so by being around Mr. El-Hindi, I could gain
11:04:08 9 access and gather information on those people.

11:04:10 10 Q. Mr. Boss asked you if Marwan El-Hindi ever sought
11:04:15 11 and received any grants for the jihad training. I
11:04:19 12 think you testified that he did not.

11:04:21 13 A. Yes.

11:04:21 14 Q. Let me take out the word "received" and ask you
11:04:24 15 if Marwan El-Hindi ever sought or tried to get a grant
11:04:28 16 to support the jihad training that you discussed in the
11:04:31 17 February 16, 2005 meeting at Marwan El-Hindi's home?

11:04:35 18 A. Yes.

11:04:36 19 Q. Can you tell the members of the jury when and how
11:04:38 20 that happened?

11:04:39 21 A. April 4th of 2005 when we went out to meet Jihad
11:04:47 22 Dahabi at his office and to put together the non-profit
11:04:51 23 organization to receive those grants.

11:04:54 24 Q. To your knowledge did that grant or that
11:04:56 25 corporation even ever get established?

11:04:59 1 A. I signed my name that day on the line for the
11:05:03 2 paperwork, so that's to the extent I know it.

11:05:08 3 Q. Did you ever see any grants come in as a result
11:05:10 4 of that?

11:05:10 5 A. I did not.

11:05:11 6 Q. Mr. Boss asked you about a -- I think he referred
11:05:15 7 to it as a shoulder-fired missile launcher. Did you
11:05:18 8 ever actually show a device like that to Marwan
11:05:20 9 El-Hindi?

11:05:20 10 A. I did not.

11:05:22 11 Q. Did you have such a device displayed in your
11:05:25 12 apartment?

11:05:26 13 A. Yes, I did.

11:05:27 14 Q. And what apartment was that?

11:05:28 15 A. At the LaSalle apartment building in downtown
11:05:32 16 Toledo here.

11:05:33 17 Q. And were there times when Marwan El-Hindi was in
11:05:36 18 your apartment and had an opportunity to see that?

11:05:39 19 A. Yes.

11:05:40 20 Q. Can you give us a general timeframe of when that
11:05:43 21 might have been?

11:05:44 22 A. I believe in the 2003, 2004 timeframe.

11:05:52 23 Q. Do you know whether it would have been before or
11:05:54 24 after Marwan El-Hindi introduced Zubair and Khaleel to
11:06:00 25 you?

11:06:00 1 A. It was before.

11:06:03 2 Q. By the way, has Marwan El-Hindi, to your to
11:06:05 3 knowledge, ever been in your mother's garage?

11:06:07 4 A. He has not.

11:06:09 5 MR. HARTMAN: Objection. May we approach,
11:06:11 6 please?

11:06:12 7 THE COURT: Sure.

11:06:12 8 (Whereupon the following discussion was had
11:08:02 9 at the bench outside the hearing of the jury:)

11:08:02 10 MR. HARTMAN: Judge, the government's now
11:08:02 11 going to show this shoulder-fired missile launcher.

11:08:02 12 THE COURT: Whatever it is.

11:08:02 13 MR. HARTMAN: Whatever it is. But they
11:08:02 14 haven't established this is what Marwan El-Hindi ever

11:08:02 15 saw. They said he wasn't in his mother's garage.

11:08:02 16 That's all he testified on direct examination. He
11:08:02 17 can't testify that he ever saw this in his apartment.

11:08:02 18 He said he wasn't in his mother's garage.

11:08:02 19 MR. SOFER: I don't know that he could
11:08:02 20 testify that he ever -- that Marwan El-Hindi ever saw
11:08:02 21 the thing at all. But I think they would object to
11:08:02 22 that if I asked that question. All I asked was whether
11:08:03 23 he had an opportunity to see it. They get to ask --
11:08:03 24 again, I go back to we would not have gone down this
11:08:03 25 road, frankly, but for fact they cross-examined --

11:08:03 1 THE COURT: That is whatever it was that was
11:08:03 2 talked about. The fact he didn't see it, it wasn't
11:08:03 3 there, you may sort it out. I think it's, quote, in
11:08:03 4 the case, and the government has has the right to show
11:08:03 5 what it is that's in the case.

11:08:03 6 MR. SOFER: For the record, we were not going
11:08:03 7 to introduce this, but I believe the door's been opened.

11:08:03 8 THE COURT: I agree.

11:08:03 9 (End of side-bar discussion.)

11:08:10 10 THE COURT: You may continue.

11:08:13 11 BY MR. SOFER:

11:08:14 12 Q. Mr. Griffin, I want to show you what's been
11:08:15 13 marked Government's Exhibit Number 205. For everyone,
11:08:19 14 it is completely empty. Can you tell the members of
11:08:24 15 the jury if that's one of the things that was displayed
11:08:29 16 in your apartment on or about the times that you
11:08:32 17 described Marwan El-Hindi having visited?

11:08:35 18 A. It was.

11:08:38 19 Q. Can you tell the members of the jury whether
11:08:41 20 after coming to your apartment where that was displayed
11:08:45 21 whether Marwan El-Hindi stopped talking to you or said
11:08:48 22 he didn't want to deal with you anymore?

11:08:50 23 A. He did not.

11:08:55 24 MR. SOFER: Your Honor, at this time the
11:08:56 25 government would offer 205 into evidence.

11:09:00 1 THE COURT: What is it, if he knows.

11:09:03 2 MR. SOFER: I apologize.

11:09:05 3 BY MR. SOFER:

11:09:05 4 Q. Can you give a basic description of what that is?

11:09:08 5 A. It is what our military uses. It's an AT-4.

11:09:12 6 It's an inoperable weapon delivery system for antitank

11:09:17 7 round.

11:09:20 8 MR. SOFER: Again, Your Honor, the government

11:09:22 9 offers 205 into the evidence.

11:09:24 10 THE COURT: It will be admitted.

11:09:40 11 BY MR. SOFER:

11:09:41 12 Q. Mr. Boss asked you about a statement that was

11:09:43 13 made on one of the recordings. He asked you

11:09:45 14 specifically about a particular statement that Marwan

11:09:48 15 El-Hindi made. We're going to play that now. It's

11:09:53 16 RD-90, 66747-1A from 10-8 of '04. That's October 8,

11:10:02 17 '04, Your Honor.

11:10:25 18 (Audio is played.)

11:11:58 19 BY MR. SOFER:

11:11:59 20 Q. Now, can you explain to the jury what the purpose

11:12:04 21 of your comments to Marwan El-Hindi were about Zubair

11:12:08 22 and Khaleel there?

11:12:09 23 A. Raising concerns about meeting them and not

11:12:12 24 interacting with them after that, and the possible

11:12:17 25 security leak.

11:12:20 1 Q. And when Marwan El-Hindi said something to the
11:12:23 2 effect of we'll tell them I'm going to train you not for
11:12:27 3 jihad, just to be ready if someone breaks into your
11:12:30 4 house, blah, blah, blah, can you tell the members of the
11:12:33 5 jury what you understood that to mean?

11:12:34 6 MR. HARTMAN: Objection, Judge.

11:12:40 7 THE COURT: I'll let him testify what his
11:12:42 8 understanding was. Again, the words are the words, and
11:12:48 9 the jury will no doubt hear and see. Go ahead.

11:12:56 10 A. Ironically, he's trying to protect me as far as
11:13:01 11 he says "we'll tell them."

11:13:03 12 MR. HARTMAN: Objection.

11:13:04 13 THE COURT: Sustained. I agree. I'm going
11:13:06 14 to strike the answer.

11:13:08 15 MR. HARTMAN: Move to strike.

11:13:09 16 BY MR. SOFER:

11:13:10 17 Q. Were there a number of occasions during the
11:13:12 18 course of the case when you or one of the defendants
11:13:18 19 discussed how you might explain yourselves if you're
11:13:21 20 ever caught?

11:13:21 21 A. Yes.

11:13:23 22 Q. And can you describe those kinds of conversation?

11:13:28 23 A. Like the one we just listened to.

11:13:32 24 Q. Were there other conversations?

11:13:34 25 MR. HARTMAN: Judge, I'm going to object and

11:13:36 1 move to strike. He just said the same thing in a
11:13:39 2 different way.

11:13:40 3 MR. SOFER: I don't believe so, Judge.

11:13:41 4 THE COURT: I agree. Overruled.

11:13:46 5 BY MR. SOFER:

11:13:47 6 Q. Were there other conversations with Marwan

11:13:50 7 El-Hindi about Zubair and Khaleel that you recorded?

11:13:51 8 A. Yes.

11:13:52 9 Q. And did some of these conversations relate to
11:13:54 10 jihad training?

11:13:55 11 A. Yes.

11:13:56 12 Q. We're going to play a series of these, hopefully
11:14:00 13 fairly quickly. The first one is 89; it's from October
11:14:07 14 5, 2004, 66747-1A?

11:14:13 15 MR. BOSS: Could we have just a moment?

11:15:15 16 MR. SOFER: We'll play 1D-90 from October 8.

11:15:21 17 RD-90, 66747-1.

11:15:47 18 (Audio is played.)

11:20:19 19 BY MR. SOFER:

11:20:20 20 Q. Okay. If we could play RD-2, 69441-1 from
11:20:27 21 December 16 of '04.

11:20:57 22 (Audio is played.)

11:23:03 23 BY MR. SOFER:

11:23:03 24 Q. Finally, I'm going to play RD-22, 69185-1 from
11:23:09 25 February 2, 2005.

11:23:09 **1** (Video is played.)

11:23:09 **2** BY MR. SOFER:

11:23:45 **3** **Q.** When you say plastique or plastic, what do you
11:23:47 **4** mean by that?

11:23:48 **5** **A.** An explosive.

11:24:27 **6** (video continues.)

11:24:48 **7** BY MR. SOFER:

11:24:48 **8** **Q.** Mr. Boss showed you a different video that
11:24:52 **9** captured you and Marwan El-Hindi and Zubair and Khaleel
11:24:55 **10** on July 4 of 2004 at the ICNA conference, and he asked
11:24:59 **11** you some questions about when Marwan El-Hindi was
11:25:01 **12** present and when he was not. Do you recall those
11:25:04 **13** questions?

11:25:04 **14** **A.** Yes.

11:25:05 **15** **Q.** We're going to play a segment of that recording,
11:25:08 **16** particularly a portion Mr. Boss did not play for you.

11:25:11 **17** I think it's RD-77, 66747-2.

11:25:25 **18** MR. BOSS: Can we have a date on that,
11:25:26 **19** please?

11:25:27 **20** MR. SOFER: July 4, 2004.

11:29:29 **21** (Video is played.)

11:29:30 **22** MR. HARTMAN: Your Honor, I'd like the
11:29:31 **23** record to reflect I believe counsel was mistaken. We
11:29:34 **24** played that whole video.

11:29:36 **25** MR. SOFER: It's certainly a possibility.

11:29:39 **1** I wouldn't rely on my memory.

11:29:41 **2** THE COURT: Okay.

11:29:42 **3** BY MR. SOFER:

11:29:43 **4** **Q.** Mr. Boss also asked you a series of questions
11:29:46 **5** about whether or not you clearly stated to the
11:29:49 **6** defendants, particularly Marwan El-Hindi, that the plan
11:29:53 **7** was to kill U.S. servicemen and women overseas. Can
11:29:56 **8** you tell the members of the jury again why; why, if you
11:30:00 **9** didn't, you didn't use those exact words?

11:30:02 **10** **A.** Once again, it's not natural to just state those
11:30:06 **11** things.

11:30:07 **12** **Q.** Were there recorded conversations in which you
11:30:09 **13** and Marwan El-Hindi did discuss U.S. military tactics?

11:30:12 **14** **A.** Yes.

11:30:13 **15** **Q.** We're going to play RD-90, 66747-2?

11:30:20 **16** THE COURT: Date?

11:30:22 **17** MR. SOFER: The date is 10-8-04, Your Honor.

11:30:40 **18** (Audio is played.)

11:34:48 **19** BY MR. SOFER:

11:34:53 **20** **Q.** Mr. Griffin, Mr. Boss spent a lot of time asking
11:34:56 **21** you questions about when -- when Marwan El-Hindi was
11:34:59 **22** present and when he was not present during the meeting
11:35:01 **23** that you had with all the defendants on February 16,
11:35:04 **24** 2004. Do you recall that?

11:35:05 **25** **A.** Yes.

11:35:06 1 Q. I believe Mr. Boss referred to this as a dinner
11:35:11 2 meeting; did he not?

11:35:12 3 A. Yes, he did.

11:35:13 4 Q. Can you tell the members of the jury what your
11:35:16 5 understanding of that meeting was at Marwan El-Hindi's
11:35:19 6 house?

11:35:19 7 A. Basically get together, discuss what kind of
11:35:22 8 training they wanted, to be specific in what we were
11:35:24 9 going to do, and that Marwan El-Hindi was hosting that
11:35:28 10 meeting.

11:35:28 11 Q. Had you discussed meeting on this day, that is
11:35:32 12 2-16, prior to February 16 of '05?

11:35:35 13 A. Yes. On February the 14th, two days earlier.

11:35:39 14 Q. And we're going to play 1D-27, RD-27 now, 69185-1
11:35:47 15 from February 14, 2005.

11:35:51 16 By the way, before we do that, do you know what
11:35:54 17 day of the week -- have you been able to determine what
11:35:56 18 day of the week February 14, 2005 was?

11:35:58 19 A. It was on a Monday.

11:36:39 20 BY MR. SOFER:

11:36:41 21 Q. By the way, on February 16 of 2005, when you were
11:36:46 22 speaking with the defendants, did you notice any
11:36:49 23 surprise whatsoever in their actions or their words
11:36:52 24 during the times you discussed jihad, ambushes, or
11:36:57 25 explosives training?

11:36:58 1 A. I did not.

11:36:59 2 Q. Was Marwan El-Hindi present as you described the
11:37:04 3 purpose of the jihad training?

11:37:06 4 A. He was.

11:37:06 5 Q. Can you tell the members of the jury, if you
11:37:08 6 know, did he participate in that conversation?

11:37:10 7 A. Yes, he did.

11:37:11 8 MR. HARTMAN: Objection.

11:37:12 9 THE COURT: Basis.

11:37:13 10 MR. HARTMAN: Because the film speaks for
11:37:14 11 itself. They saw exactly who participated and said
11:37:17 12 what.

11:37:18 13 THE COURT: I'll let him answer. But as I
11:37:20 14 say --

11:37:21 15 MR. SOFER: We'll play it, Judge. I'll
11:37:23 16 withdraw the question.

11:37:27 17 (Video is played.)

11:37:27 18 BY MR. SOFER:

11:37:28 19 Q. Were Marwan El-Hindi's children sitting in the
11:37:30 20 room as you discussed the jihad training?

11:37:33 21 A. Yes.

11:37:34 22 Q. Were you able to tell all the time whether the
11:37:38 23 camera was obstructed?

11:37:39 24 A. No, I was not.

11:37:41 25 Q. Did there ever come a time in the case where you

11:37:43 1 purposely obstructed the camera in any way to try to
11:37:46 2 prevent it from capturing any image that you were
11:37:49 3 recording?

11:37:49 4 A. No.

11:37:52 5 MR. SOFER: We're going to play a series of
11:37:55 6 recordings from February 16, 2005. And we're going to
11:38:01 7 start with 29, 69185-4A. Before we do that, Judge, I'm
11:38:08 8 going to ask that we be permitted to hand out a
11:38:11 9 translation that I believe counsel all have and are
11:38:14 10 taking a look at. We're going to ask that that
11:38:17 11 translation, which is Government's Exhibit 20A --

11:38:21 12 MR. IVEY: Objection, Your Honor. Can we
11:38:23 13 approach?

11:48:38 14 (Whereupon the following discussion was had
11:48:38 15 at the bench outside the hearing of the jury:)

11:48:38 16 MR. IVEY: I believe this translation is a
11:48:38 17 translation of the beheading video.

11:48:38 18 MR. SOFER: It is.

11:48:38 19 MR. IVEY: I think this exceeds the scope of
11:48:38 20 cross because I don't think at any time I cross-examined
11:48:38 21 on anything to do with the beheading.

11:48:38 22 MR. SOFER: What the -- not Mr. Ivey, but
11:48:38 23 what Mr. Boss did was spend a lot of time discussing
11:48:38 24 whether Mr. El-Hindi was present during that point in an
11:48:38 25 attempt, I believe, to show the jury that somehow what

11:48:38 1 was going on there, Marwan didn't know about. And they
11:48:38 2 talk about at length this particular video, which again,
11:48:38 3 the concept I think defense counsel is trying to elicit
11:48:38 4 and spent a lot of time in their cross-examination about
11:48:38 5 is whether Marwan El-Hindi was present for the, quote,
11:48:38 6 incriminating, unquote, parts of the conversations.
11:48:38 7 And in fact, there are many incriminating parts of the
11:48:38 8 conversation, including the fact that they're aware of
11:48:38 9 and discussing one of these videos. By the way, this
11:48:38 10 is a video that both Mr. Amawi and Marwan El-Hindi
11:48:38 11 describe their knowledge of I think independently.

11:48:38 12 We're not going to play the beheading part
11:48:38 13 of the video. I think we've been very careful not to
11:48:38 14 do that kind of thing. So we won't play the actual
11:48:38 15 violent nasty part of this, but we are going to play the
11:48:38 16 part that they're discussing about how they're
11:48:38 17 discussing amongst themselves.

11:48:38 18 I might add, Your Honor, how the person
11:48:38 19 who's depicted in this video threw a chip into various
11:48:38 20 places, and that chip was essentially used by the United
11:48:38 21 States military to target those locations. Of course,
11:48:39 22 that goes to the very heart of whether or not Marwan
11:48:39 23 El-Hindi knew and was aware of and had the intent to
11:48:39 24 commit this crime. They're trying to say he didn't see
11:48:39 25 or hear the important parts of the conversation. This

11:48:39 **1** is a critically important part.

11:48:39 **2** THE COURT: Go ahead.

11:48:39 **3** MR. IVEY: I think that there is loads of
11:48:39 **4** evidence that the government can point to, but the
11:48:39 **5** beheading video doesn't really relate to this point. I
11:48:39 **6** think it's unfair. The inflammatory nature of this
11:48:39 **7** outweighs the probative value.

11:48:39 **8** THE COURT: I'm not sure why it's necessary
11:48:39 **9** to play a transcript that could have been played earlier
11:48:39 **10** on direct. Can you accomplish whatever it is you're
11:48:39 **11** trying to accomplish by asking him whether during that
11:48:39 **12** meeting, February 16 get-together, the -- what the jury
11:48:39 **13** has seen called the beheading video was discussed. I
11:48:39 **14** don't see why we need the transcript.

11:48:39 **15** MR. SOFER: I'll explain why we need the
11:48:39 **16** transcript, Judge. The video itself, it is what it is.
11:48:39 **17** As you've said many times, it is what is it. But it
11:48:39 **18** doesn't depict -- you have to read this to see what
11:48:39 **19** we're talking about. The discussion relates to
11:48:39 **20** specific aspects of the video, these chips. If you
11:48:39 **21** watch the video, you don't -- it's not apparent
11:48:39 **22** necessarily on its face. The connection to the way the
11:48:39 **23** government establishes a nexus is through the words that
11:48:39 **24** are being spoken in the video, and they happen to be
11:48:39 **25** spoken largely in Arabic. It's the defendant's talking

11:48:39 1 about --

11:48:39 2 THE COURT: Is the entire transcript of the
11:48:39 3 entire video or only that segment?

11:48:39 4 MR. SOFER: It's the entire -- if I may,
11:48:39 5 counsel. It's relatively short. And again, so it's
11:48:39 6 clear, I understand what counsel is saying. We're not
11:48:39 7 interested in playing the beheading portion. That is
11:48:39 8 not the portion the government is going to be
11:48:39 9 introducing, only the portion which establishes a nexus
11:48:39 10 between that which you can hear on the recording, the
11:48:39 11 discussions between the defendants, and that video.
11:48:39 12 Without this it's nearly impossible. One could make an
11:48:39 13 inference, but I think the government should be entitled
11:48:39 14 to link this up. The reason we didn't bring this
11:48:39 15 translations in on direct -- we could have put in all of
11:48:39 16 the translations on direct. But largely because for
11:48:39 17 the purposes that we initially offered them, the videos
11:48:39 18 do to some extent speak for themselves, and we thought
11:48:39 19 it would slow down the presentation of evidence quite a
11:48:39 20 bit. It is the government's intention to put all of
11:48:39 21 these translations of these videos in because counsel
11:48:39 22 spent a lot of time talking about what these videos
11:48:39 23 actually depict. Well, if you speak Arabic and you
11:48:39 24 understand what's being said here, it makes it much
11:48:39 25 clearer exactly what they depict, which goes to the

11:48:39 1 defendants' intent. Here it's not so much the intent
11:48:39 2 element that we're looking to put in but to establish a
11:48:39 3 nexus between the conversation that's going on in the
11:48:39 4 room and this particular video.

11:48:39 5 Mr. Herdman wants to say a word.

11:48:39 6 MR. HERDMAN: Desperately. To tie this
11:48:39 7 into why we're doing this on redirect, Mr. Boss, if you
11:48:39 8 remember, there was a series of conversations that took
11:48:39 9 place in Arabic. Mr. Boss asked a specific question of
11:48:39 10 Mr. Griffin, which was, the portions that you just read
11:48:39 11 that were scrolling down the screen in Arabic, do those
11:48:39 12 contain any conversation about violent jihad? Mr.
11:48:39 13 Griffin said no. One of them did. We need to redirect
11:48:39 14 the witness' attention to one of those conversations.

11:48:39 15 MR. IVEY: Mr. Boss asked that question
11:48:39 16 regarding the conversation between three defendants
11:48:39 17 while they were eating, not when they were looking at
11:48:39 18 the video. I have it; it's on page 64 of the
11:48:39 19 transcript. I pulled that up specifically. Just this
11:48:39 20 conversation is while they're eating.

11:48:39 21 It is true I cross-examined on videos, what
11:48:39 22 they mean, but I didn't do so in a global sense. I did
11:48:39 23 so on specific ones that were played. I did not play
11:48:39 24 the beheading video. I think this goes --

11:48:39 25 MR. HARTMAN: This is not while they were

11:48:39 1 eating. We played the entire tape of while they were
11:48:39 2 eating of what they were doing. This is back when they
11:48:39 3 were in the computer room.

11:48:39 4 MR. HERDMAN: It's not. It's while they're
11:48:39 5 sitting around the table.

11:48:39 6 MR. SOFER: If you want to look at that
11:48:39 7 outside the presence of the jury, I'd be happy to show
11:48:39 8 it to you.

11:48:39 9 THE COURT: If I understand correctly, what
11:48:39 10 you are trying to show is this disk business, that that
11:48:39 11 was what the person shown kneeling about the beheading
11:48:39 12 was saying. It was a confession, in effect.

11:48:39 13 MR. SOFER: Correct.

11:48:39 14 THE COURT: Can't you -- can you simply
11:48:39 15 limit it to that segment, 325, and let that go?

11:48:39 16 MR. HERDMAN: Yes, absolutely.

11:48:39 17 MR. HARTMAN: Is this from the audio or
11:48:39 18 video?

11:48:39 19 MR. HERDMAN: This is a translation.

11:48:39 20 THE COURT: It's translation of the
11:48:39 21 beheading video. And I do think that because there was
11:48:39 22 reference to disks, I think it's appropriate say --
11:48:39 23 point out where that reference comes from and what it
11:48:39 24 is, and so I think the jury can see that portion of it
11:48:39 25 and lay a foundation.

11:48:39 1 MR. HARTMAN: So this is not the defendants
11:48:39 2 talking?

11:48:39 3 THE COURT: No.

11:48:39 4 MR. SOFER: Talking about --

11:48:39 5 MR. HARTMAN: It's the beheading victim's,
11:48:39 6 quote, confession, what I would call a confession?

11:48:39 7 MR. EL-KAHMAWY: I haven't looked at the
11:48:39 8 translation. I don't have a video in front of me, so
11:48:39 9 we don't know whether it's an accurate translation or
11:48:39 10 not.

11:48:39 11 THE COURT: Well, if it's not, you can come
11:48:39 12 back and say this is what it is.

11:48:39 13 MR. HERDMAN: This has been provided to
11:48:39 14 defense counsel in March at some point.

11:48:39 15 THE COURT: Whatever.

11:48:39 16 MR. HELMICK: Judge, is the government -- is
11:48:39 17 there a connection between what Marwan El-Hindi says
11:48:39 18 about this video and exactly what's contained in the
11:48:39 19 translation?

11:48:39 20 MR. SOFER: Yes.

11:48:39 21 MR. HERDMAN: And Amawi as well.

11:48:39 22 MR. HELMICK: So he makes specific reference
11:48:39 23 to something he would only know if he understood the
11:48:39 24 Arabic that's being played on the recording?

11:48:39 25 MR. SOFER: Mr. Amawi too.

11:48:39 1 THE COURT: I'm going to permit you --
11:48:39 2 MR. SOFER: Let me say what it is I think the
11:48:39 3 government would like to do. The disk discussion
11:48:39 4 begins at 1:58.

11:48:39 5 THE COURT: I will permit that.

11:48:39 6 MR. SOFER: And we can end it if you want at
11:48:39 7 4:50, 4:38, if you want us to stop.

11:48:39 8 THE COURT: Read through the 3:25 segment
11:48:39 9 and stop there.

11:48:39 10 MR. SOFER: Very well. So we need to tell
11:48:39 11 our person where he's going.

11:48:39 12 THE COURT: That's fine.

11:48:39 13 MR. SOFER: Is there any objection to me
11:48:39 14 handing out the translation to the jury so that they can
11:48:39 15 read it?

11:48:39 16 THE COURT: I would prefer that you show it
11:48:39 17 on the ELMO.

11:48:39 18 MR. EL-KAHMAWY: Your Honor, respectfully,
11:48:39 19 there is on 2-2, there was a conversation in Arabic that
11:48:39 20 it was for about more than five or six minutes where the
11:48:39 21 killings and beheadings and the punishments are
11:48:39 22 discussed. They're discussed in Arabic. It's related
11:48:39 23 to what's going to be played. So are we going to be
11:48:39 24 allowed to introduce this without the translation and
11:48:39 25 all that?

11:48:39 1 THE COURT: If I understand what you're
11:48:39 2 saying, I assume so. But I'm going to permit him that
11:48:39 3 excerpt that I'm talking about, those rather lengthy
11:48:39 4 segments of the individual speaking himself and telling
11:48:39 5 what he did, I will permit that to be presented.

11:48:39 6 MR. SOFER: We're going to cut it right now.
11:48:39 7 I'll play it first while they're snipping the
11:48:39 8 translation.

11:48:39 9 (End of side-bar discussion.)

11:48:41 10 THE COURT: Ladies and gentlemen, there has
11:48:43 11 to be a bit of adjustment to what you are about to see,
11:48:48 12 both in terms of video and in terms of what the
11:48:50 13 government's presenting as the translation of this
11:48:56 14 segment of the video that you will be seeing.

11:48:58 15 MR. SOFER: Your Honor, I'll offer
11:49:00 16 Government's Exhibit Number 20-A, but those portions
11:49:02 17 that the Court has limited the government to in evidence
11:49:06 18 at this time.

11:49:29 19 We're going to start by playing RD-29.

11:49:35 20 MR. BOSS: What was that?

11:49:37 21 MR. SOFER: RD-29, 69185-4A.

11:50:03 22 (Video is played.)

11:53:32 23 BY MR. SOFER:

11:53:34 24 Q. Mr. Griffin, there was a portion of that
11:53:36 25 conversation which the defendants discussed an Egyptian

11:53:42 1 and some chips and some money for chips. Do you know
11:53:46 2 what they were talking about there?

11:53:47 3 A. Yes. One of the videos played earlier about the
11:53:54 4 Egyptian --

11:53:56 5 MR. IVEY: Object.

11:53:57 6 THE COURT: Overruled.

11:54:02 7 A. -- about the Egyptian man that were throwing
11:54:07 8 chips to target or to signal or to mark a target for the
11:54:12 9 U.S. planes.

11:54:19 10 Q. I'm going to show you and the jury what is now in
11:54:23 11 evidence as Government's Exhibit Number 20-A, if we can
11:54:28 12 switch over to the lectern.

11:55:06 13 THE COURT: It's my understanding you will
11:55:07 14 see a portion of the video that previously was viewed by
11:55:11 15 you in which there was Arabic language, and what you're
11:55:17 16 about to view is presented as a translation of a
11:55:20 17 segment, that segment of the -- the Arabic segment or
11:55:26 18 the language in that segment you're about to see.

11:55:31 19 MR. SOFER: Can everybody see that and read
11:55:33 20 it? I'll leave it up there for a moment, Judge.

11:55:43 21 THE COURT: You can wait to read it though.

11:55:47 22 MR. SOFER: Why don't I put the first portion
11:55:49 23 up. Is that better?

11:55:54 24 THE JUROR: Much.

11:56:13 25 (Text is displayed.)

11:56:37 **1** MR. SOFER: Has everybody read that?

11:56:39 **2** The next section.

11:56:47 **3** (Text is displayed.)

11:57:57 **4** MR. SOFER: Has everybody read that?

11:58:02 **5** For the record, Your Honor, the government

11:58:04 **6** displayed to the jury the section from 1:58 to 3:25,

11:58:12 **7** that paragraph.

11:58:21 **8** Now we can go back to the actual video. We

11:58:28 **9** can play a portion of 20. We're starting at 1:58.

11:59:34 **10** (Video is played.)

12:00:16 **11** MR. SOFER: The record should reflect the

12:00:17 **12** government stopped this at 3 minutes, 34 seconds out of

12:00:24 **13** five minutes and 26 seconds.

12:00:29 **14** BY MR. SOFER:

12:00:29 **15** Q. Now, was Marwan El-Hindi present during the

12:00:32 **16** conversation that discussed this matter?

12:00:34 **17** A. Yes.

12:00:34 **18** Q. And I want us to now go to RD-28, 69185-8, same

12:00:42 **19** date, 2-16-05.

12:01:19 **20** MR. SOFER: RD-29, 69185-5.

12:01:24 **21** MR. HERDMAN: A.

12:01:26 **22** MR. BOSS: Can we have just a moment,

12:01:29 **23** please.

12:01:29 **24** MR. SOFER: Sure.

12:01:32 **25** MR. BOSS: 5A or 5?

12:01:39 1 MR. SOFER: I believe it's 5A.

12:01:53 2 (Discussion had off the record.)

12:02:04 3 MR. SOFER: I guess I got it right. It's

12:02:08 4 actually 8.

12:02:17 5 MR. SOFER: Judge, if we could play it, we
12:02:19 6 can figure it out while it's playing if counsel has been
12:02:23 7 directed to the right portion of the transcript. Do you
12:02:27 8 have it?

12:02:28 9 MR. BOSS: Eight is the next one in the
12:02:30 10 sequence that was sent to us.

12:02:34 11 MR. SOFER: Then let's play 8.

12:03:17 12 (Video is played.)

12:03:18 13 Q. Was Marwan El-Hindi present for that portion of
12:03:21 14 the conversation on 2-16-05?

12:03:25 15 A. Yes.

12:03:25 16 Q. RD-2969185, I have 6A.

12:04:18 17 (Video is played.)

12:04:19 18 BY MR. SOFER:

12:04:20 19 Q. Again I'd ask if Marwan El-Hindi present for that
12:04:21 20 portion of the conversation?

12:04:23 21 A. Yes, he is.

12:04:23 22 Q. RD-29-69185-7A. Before you start it, can you
12:04:33 23 see Marwan El-Hindi in what's depicted there on the
12:04:35 24 screen?

12:04:35 25 A. Yes, I can.

12:04:39 1 (Video is played.)

12:05:20 2 BY MR. SOFER:

12:05:21 3 Q. When Wassim Mazloum asked if you were going to
12:05:23 4 teach how to make bombs, was Marwan El-Hindi present?

12:05:26 5 A. Yes, he was.

12:05:27 6 Q. When there was a discussion of what the United
12:05:30 7 States military's fear of snipers is, was Marwan
12:05:33 8 El-Hindi present?

12:05:34 9 A. Yes, he was.

12:05:46 10 MR. SOFER: RD-29, 69185-5, please.

12:05:46 11 (Video continues.)

12:06:25 12 BY MR. SOFER:

12:06:25 13 Q. When you're discussing the need for funding for
12:06:27 14 this type of training and the grant, is Marwan El-Hindi
12:06:30 15 present?

12:06:30 16 A. Yes, he is.

12:06:32 17 Q. Was he actively participating in the conversation
12:06:35 18 there?

12:06:35 19 A. Yes, he is.

12:06:42 20 (Video continues.)

12:09:02 21 MR. SOFER: RD-2969185-8A.

12:09:10 22 (Video is played.)

12:09:35 23 BY MR. SOFER:

12:09:36 24 Q. When there's a description about manpower needed
12:09:39 25 for military actions in Iraq on behalf of the

12:09:43 **1** insurgency, was Marwan El-Hindi present?

12:09:45 **2** A. Yes, he was.

12:09:46 **3** Q. Did there come a time when this conversation

12:09:48 **4** turned to sniper attacks that had already been

12:09:51 **5** perpetrated inside the United States?

12:09:53 **6** A. Yes.

12:09:54 **7** Q. And can you give the jury a basic understanding

12:09:57 **8** of what that conversation was about?

12:10:00 **9** A. Basically I had brought up the Virginia sniper,

12:10:10 **10** Muhammad and Malvo is what the name was, what they had

12:10:15 **11** did out there in Virginia and how it affected the

12:10:17 **12** people.

12:10:18 **13** Q. Was Marwan El-Hindi present for those

12:10:20 **14** conversations as well?

12:10:21 **15** A. Yes, he was.

12:10:22 **16** Q. I'm going to play RD-2969185-9A. Who's depicted

12:10:29 **17** at -- that begins at five minutes, 50 seconds.

12:10:33 **18** A. Mr. El-Hindi.

12:11:57 **19** (Audio is played.)

12:11:59 **20** BY MR. SOFER:

12:12:00 **21** Q. Mr. Boss asked you a question or two about a

12:12:05 **22** woman named Sister Fatimah and a letter that was sent

12:12:08 **23** from Abu-Ghraib prison. Do you recall those questions?

12:12:12 **24** A. Yes, I do.

12:12:12 **25** Q. And I think in answer to his questions you stated

12:12:15 1 that the letter made some kind of -- in addition to what
12:12:20 2 Mr. Boss was asking you about, also that the letter made
12:12:23 3 a request?

12:12:24 4 A. Yes.

12:12:24 5 Q. And can you give a description basically to the
12:12:27 6 jury of what you were talking about when you tried to
12:12:29 7 answer that question?

12:12:30 8 A. In the letter it was a request to --

12:12:32 9 MR. HARTMAN: Objection, Your Honor. It
12:12:34 10 would be hearsay unless we see the letter.

12:12:36 11 MR. SOFER: Okay. We have that. That's
12:12:39 12 61A, please.

12:12:50 13 Your Honor, this is a translation of this
12:12:54 14 document. It's already in evidence, Government's 61A.

12:13:03 15 MR. BOSS: However, he's asking the witness
12:13:05 16 if he was familiar with this. The witness doesn't read
12:13:08 17 or speak Arabic. Referring to a document that was in
12:13:11 18 Arabic not translated for him, we would object.

12:13:14 19 THE COURT: Let's take that off.

12:13:15 20 MR. SOFER: Let me clarify this, Judge.

12:13:18 21 BY MR. SOFER:

12:13:18 22 Q. You had had conversations with Mohammad Amawi
12:13:20 23 about this letter from Sister Fatimah, right?

12:13:23 24 A. Yes.

12:13:23 25 Q. And can you give us a basic description again of

12:13:27 **1** what this letter was about?

12:13:31 **2** THE COURT: According to what?

12:13:33 **3** MR. SOFER: According to your discussions

12:13:35 **4** with Mr. Amawi and whatever you were able to discern

12:13:37 **5** from your interactions with Mr. Amawi.

12:13:39 **6** THE COURT: Again, ladies and gentlemen --

12:13:44 **7** go ahead.

12:13:45 **8** **A.** Basically that Fatimah was in prison in

12:13:50 **9** Abu-Ghraib jail and that she wrote a letter to the

12:13:58 **10** insurgents telling them to come in, attack the prison

12:14:02 **11** and kill her in the attacking of it. She just wanted

12:14:06 **12** to die at that point.

12:14:08 **13** **Q.** Now, you have had an opportunity to look at

12:14:10 **14** Government's Exhibit Number 61-A?

12:14:12 **15** **A.** Just when the defense showed me for the first

12:14:18 **16** time.

12:14:18 **17** **Q.** And does the description of Fatimah in

12:14:24 **18** government's 61-A that the defense showed you remind you

12:14:27 **19** or in any way correspond to the Sister Fatimah and the

12:14:30 **20** letter you just described to the jury?

12:14:32 **21** **A.** Yes.

12:14:33 **22** **Q.** Do you believe them to be the same individual?

12:14:35 **23** **A.** Yes.

12:14:36 **24** MR. SOFER: If we could please put 61-A back

12:14:39 **25** on the screen, Your Honor.

12:14:42 1 THE COURT: Okay.

12:14:43 2 MR. SOFER: For the record, it's the second

12:14:45 3 page which actually says page 3 of 6 on the back of it.

12:15:00 4 Q. By the way, were there a number of times when
12:15:03 5 Mohammad Amawi discussed sort of the concept of revenge
12:15:09 6 for Fatimah?

12:15:11 7 A. Yes.

12:15:11 8 Q. And were some of the other conversations you had,
12:15:14 9 including one I believe we already played here, a
12:15:17 10 discussion about those kind of things?

12:15:18 11 A. Yes.

12:15:21 12 Q. We'll give the jury a moment to read this, then
12:15:24 13 we'll move on.

12:15:53 14 MR. SOFER: I'm being pointed to the lunch
12:15:56 15 clock, Your Honor, by one of the jurors. I defer to
12:16:00 16 Your Honor.

12:16:01 17 THE COURT: How much longer do you think
12:16:02 18 you're --

12:16:03 19 MR. SOFER: I have at most 15, 25 minutes.
12:16:07 20 Between 15 and 25 minutes.

12:16:09 21 THE COURT: Ladies and gentlemen, do you
12:16:10 22 mind if we continue for a half hour to have lunch?

12:16:15 23 THE JUROR: That's fine.

12:16:16 24 THE COURT: That way we'll complete this
12:16:18 25 segment. Thank you for your patience.

12:16:26 **1** BY MR. SOFER:

12:16:26 **2** Q. Mr. Boss asked you about a recorded conversation
12:16:29 **3** on February 2 of 2005. And we're going to play what's
12:16:34 **4** been designated as RD-2269185-2 and then -2A?

12:16:45 **5** THE COURT: Did you say February 22?

12:16:47 **6** MR. SOFER: February 2, 2005.

12:16:51 **7** THE JUROR: What was the year?

12:16:52 **8** MR. SOFER: 2005, 2A and then 2.

12:16:52 **9** BY MR. SOFER:

12:17:02 **10** Q. By the way as a refresher, this is one of the
12:17:05 **11** occasions that you and Mohammad Amawi and Marwan
12:17:08 **12** El-Hindi were -- in fact, the first occasion when you,
12:17:12 **13** Marwan El-Hindi and Mohammad Amawi were in Mohammad
12:17:14 **14** Amawi's apartment?

12:17:15 **15** A. Yes.

12:17:41 **16** MR. SOFER: Back to the beginning so we make
12:17:44 **17** sure we're clear.

12:17:45 **18** (Video is played.)

12:18:12 **19** BY MR. SOFER:

12:18:13 **20** Q. Reading the English translation, are you able to
12:18:16 **21** discern what is it they're talking about there?

12:18:18 **22** A. At least explosives, yes.

12:18:24 **23** THE COURT: I couldn't hear you.

12:18:25 **24** THE WITNESS: At least explosives, yes.

12:18:51 **25** (Video continues.)

12:23:45 1 MR. SOFER: The record should reflect the
12:23:46 2 government stopped this at 20:23.
12:23:48 3 Let's play the next clip, please.
12:23:52 4 MR. BOSS: What's the number for the next
12:23:54 5 clip?
12:23:54 6 MR. SOFER: RD-22, 69185-2.
12:23:58 7 THE COURT: Same date?
12:24:00 8 MR. SOFER: Same date, Your Honor.
12:24:37 9 (Video continues.)
12:24:42 10 BY MR. SOFER:
12:24:42 11 Q. This conversation on February 2 lasted for some
12:24:45 12 time, correct?
12:24:46 13 A. Correct.
12:24:46 14 Q. At the end of that conversation do you recall
12:24:48 15 what Marwan El-Hindi did?
12:24:51 16 A. He invited Mr. Amawi over to his house.
12:24:57 17 Q. Let's play RD-22, 69185-3, same date, 2-2-05.
12:25:24 18 (Video continues.)
12:25:30 19 BY MR. SOFER:
12:25:31 20 Q. Now, Mr. Boss asked you about another recorded
12:25:33 21 conversation that took place on February 8, 2005. I
12:25:37 22 believe he asked you whether you had gone to the
12:25:40 23 Almusada website before February 8, 2005. I want to
12:25:47 24 show you Exhibit Number 61 quickly.
12:25:53 25 I believe your testimony was that you had

12:25:55 **1** received this document from Marwan El-Hindi and given it
12:25:59 **2** to the FBI; is that correct?

12:26:00 **3** **A.** Correct.

12:26:01 **4** **Q.** Do you recall whether you went to this site?

12:26:03 **5** THE COURT: For the record --

12:26:05 **6** MR. SOFER: It's 61 in evidence, Your Honor.

12:26:09 **7** BY MR. SOFER:

12:26:11 **8** **Q.** Do you recall whether you went there before or
12:26:14 **9** after February 8, 2005?

12:26:16 **10** **A.** I can't recall before, but definitely after I
12:26:19 received that, I went to it.

12:26:21 **12** **Q.** And we're going to play RD-7, 69440-1 from
12:26:28 **13** February 8, 2005.

12:26:56 **14** BY MR. SOFER:

12:26:56 **15** **Q.** By the way, can you remind us again who Uthman
12:27:00 **16** is?

12:27:00 **17** **A.** That is his son.

12:27:27 **18** (Audio continues.)

12:27:33 **19** BY MR. SOFER:

12:27:34 **20** **Q.** At this juncture do you recall whether this has
12:27:36 **21** something to do with the paper that you receive that is
12:27:38 **22** Government's Exhibit Number 61 to the best of your
12:27:41 **23** knowledge?

12:27:41 **24** **A.** Yes. He's thumbing through some papers at this
12:27:44 **25** point.

12:27:47 **1** MR. SOFER: Continue.

12:27:48 **2** (Audio continues.)

12:30:30 **3** BY MR. SOFER:

12:30:31 **4** **Q.** The part where you laugh there, do you recall why
12:30:35 **5** you laughed?

12:30:35 **6** **A.** Because of my Arab name, Bilal, was in the
12:30:45 **7** corner, and he made reference to it.

12:31:02 **8** (Audio continues.)

12:31:09 **9** BY MR. SOFER:

12:31:10 **10** **Q.** When Marwan El-Hindi said this is the one how to
12:31:13 **11** make it, did you learn what that was?

12:31:15 **12** **A.** Yes, it was the bomb vest video.

12:31:17 **13** **Q.** And I think Mr. Boss asked you whether you were
12:31:20 **14** eager to get the bomb vest video. Is it fair to say
12:31:23 **15** you were eager to get the bomb vest video?

12:31:25 **16** **A.** Yes, I was.

12:31:26 **17** **Q.** Can you tell the members of the jury why that
12:31:27 **18** was?

12:31:28 **19** **A.** It's instructional training on how to get a --
12:31:31 **20** create a bomb. Also to get it to the FBI.

12:31:36 **21** **Q.** Had you had discussions with the FBI about the
12:31:39 **22** importance of getting this bomb vest video?

12:31:42 **23** **A.** Yes.

12:31:42 **24** **Q.** On this day did Marwan El-Hindi give you Exhibit
12:31:45 **25** Number 61, which we saw?

12:31:47 1 A. Yes, he did.

12:31:48 2 Q. What did you use it for, if anything?

12:31:51 3 A. I used it to navigate to that actual website and
12:31:55 4 download the bomb vest video.

12:31:57 5 Q. Now I want to direct your attention to February
12:32:00 6 25, 2005. And specifically, Exhibit Number 79, which
12:32:06 7 we started with here. I'll just put the front of that
12:32:09 8 document up. And Mr. Boss asked you if the e-mail with
12:32:15 9 this IED attack attached could be used for avoiding an
12:32:21 10 IED; is that correct? Do you recall him asking you
12:32:25 11 that question?

12:32:26 12 A. I recall.

12:32:27 13 Q. And had you had conversations with Marwan
12:32:32 14 El-Hindi about what the purpose was of him sending this
12:32:35 15 to you?

12:32:36 16 A. Yes.

12:32:36 17 Q. We're going to play RD-10, 69440-1.

12:32:44 18 MR. BOSS: Ten?

12:32:46 19 MR. SOFER: Ten, 69440-1.

12:32:50 20 THE COURT: Date?

12:32:52 21 MR. SOFER: Date is February 25, 2005, Your
12:32:59 22 Honor.

12:32:59 23 The last clip, for the lunch query.

12:33:52 24 (Audio is played.)

12:35:12 25 BY MR. SOFER:

12:35:13 1 Q. If we could go back to 79.

12:35:24 2 Was this what was being displayed? We're going
12:35:32 3 to get to it in a second. My question would be, were
12:35:35 4 the batteries that were being displayed what Marwan
12:35:38 5 El-Hindi was asking you about how to get them?

12:35:40 6 A. Yes.

12:35:43 7 Q. Lastly, Mr. Griffin, I ask you, at any time in
12:35:48 8 this case did you ever force these defendants to meet
12:35:51 9 with you in any way?

12:35:53 10 A. I did not.

12:35:54 11 Q. And did you ever threaten them in any way at any
12:35:57 12 time whatsoever?

12:35:58 13 A. I did not.

12:36:01 14 MR. SOFER: Judge, I have no further
12:36:02 15 questions.

12:36:03 16 THE COURT: Okay. We'll try to resume in
12:36:05 17 about an hour, folks.

12:36:07 18 MR. BOSS: Judge, could we have just a
12:36:10 19 moment for a defense conference before the jury
12:36:13 20 adjourns?

12:36:13 21 THE COURT: Okay.

12:36:15 22 MR. BOSS: Thank you.

12:37:45 23 (Discussion had off the record.)

12:37:49 24 MR. BOSS: Thank you, Judge.

12:37:51 25 THE COURT: Ladies and gentlemen, see you in

12:37:53 1 about an hour.

12:37:55 2 (Lunch recess taken.)

3 (Sealed sidebar follows.)

4 - - -

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6 C E R T I F I C A T E

7

8 I certify that the foregoing is a correct transcript
9 from the record of proceedings in the above-entitled
10 matter.

11

12 /s Tracy L. Spore

13 Tracy L. Spore, RMR, CRR

Date

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INDEX

3 DARREN GRIFFIN, REDIRECT EXAMINATION 3875

4 BY MR. SOFER: